

ORDER SHEET
 IN THE HIGH COURT OF SINDH, KARACHI
 High Court Appeal No.12 of 2024
 (Khalil-Ur-Rehman & others Versus Zoomlion Pakistan Private Ltd & others)

Dated	Order with signature of Judge
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Present:
 Mr. Justice Muhammad Shafi Siddiqui
Mr. Justice Omar Sial

Hearing case (priority)

1. For order on Nazir Report dated 12.02.2024
2. For order on office objection/ reply at A
3. For hearing of main case
4. For hearing of CMA No. 48/2024 (stay)

Dated 27.03.2024

Mr. Abdul Razzaq Advocate for the Appellant
 Mr. Junaid Ahmed Advocate for the Respondent No.1
 Mr. Raja Zeeshan Advocate for the Respondent Nos. 2 to 5

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Muhammad Shafi Siddiqui, J.- In a suit for declaration, direction, mandatory injunction, permanent injunction and damages, Respondent No.1 seeks the release and handing over machineries. The Appellants being landlords were impleaded as they were necessary and proper parties.

2. On the first date of hearing, an order was passed whereby the Nazir was required to inspect the subject property, prepare an inventory and ensure the shifting of the machinery available within the premises, as specified in the plaint, at the cost of the plaintiff therein i.e. Respondent No.1. The landlords have challenged the said ad-interim order that those machineries were in fact for the assurance of the unpaid rent, likely to be recovered from tenants who have not paid the rent since long. Appellants claimed to have filed a suit for recovery of amount Rs.15,255,917/- as Suit No. 1780 of 2023 in the Court of VIII-Senior Civil Judge, Karachi-West.

3. We have heard the learned counsels and perused the material available on record.

4. The Appellants may have a right to recover the rent from their tenants but they have not been able to show their interest over the machineries as of now. It is only claimed that the tenants have left these machineries as a recourse of recovering rent. It is claimed that for the mandatory injunction passed by the learned Single Judge the requirements were not met, and that would deprive the Appellants from recovering the rent through these movable assets/machineries. As we have observed that the Appellants have no vested rights over these movable assets/machineries of the tenants their interference in this suit is not justified. In case the Appellants are interested in recovering the amount through these movable assets/machineries they may invoke the jurisdiction of the Court where their suit of recovery is pending and are at liberty to move application for attachment before judgment, in case the requirements of order XXXVIII are observed and met. In this appeal however, the Appellants have not shown their interest over the machineries for objecting the impugned order. Therefore, they cannot object in these suits for shifting of the machineries the inventory of which has already been prepared. They may however file an application in their suit for attachment of the machineries if so desired, the trial Court may pass order in consideration of requirement of Order XXXVIII C.P.C. Since the injunctive order is operating it is requested by Appellants that till they move application before the Court having jurisdiction, the shifting of the machineries may not be undertaken. Order accordingly, such understanding would prevail for the next 15 days where after the impugned order may be taken to its logical end.

5. Appeal stands disposed of in above terms along with pending application.

JUDGE

JUDGE