

presence of parties and at that time such request was not made; plaintiff intends to delay the matter by moving such type of applications; no direction can be altered except by filing of Review Application hence instant application under section 151 CPC is not maintainable. In support of his contention he has relied upon PLD 1981 Supreme Court 371.

Heard learned counsel, perused the record.

For the sake of convenience, paragraph Nos.2 and 4 of application are reproduced herewith:-

“2. That this Hon’ble Court was pleased to pass an order by allowing the application of the plaintiff and passing an order dated 20.01.2015 in which separate part highlighted below:

“I have heard the learned counsel of the parties and perused the material available on the record on the form of pleadings and appreciated the case law and have come to the conclusion that the defendant No.1 has wrongly implicated the family members of the plaintiff for the pleadings and the remarks with regard to the conduct of the family members wherever appearing in the pleading of the defendants is liable to be expunged.””

“4. That Court can direct the registrar to amend the pleadings by omitting any words by making variations through red ink or even Court can direct the parties to file new amended pleadings which should be clean from all the scandalous words used before.”

At this juncture it would also be conducive to refer relevant portion of the order dated 20.01.2015, as under:-

“I have heard the learned counsel for the parties and perused the material available on the record on the form of pleadings and appreciated the case law and have come to the conclusion that the defendant No.1 has wrongly

implicated the family members of the plaintiff for the pleadings and the remarks with regard to the conduct of the family members wherever appearing in the pleadings of the defendants is liable to be expunged. Words “and his family members” wherever appearing in the Counter-Affidavit and pleadings are hereby expunged. The applications stand disposed of in terms of above order. Office is directed to fix the stay application at Sr. No.1 on the next date of hearing for deciding first. Adjourned. Interim order passed earlier to continue till next date of hearing.

From bare perusal of the above order, it appears that direction was issued that remarks were expended however no direction was issued for such endorsement in red ink. At this stage it would be also germane to reproduce Rules 126 and 127 of the Sindh Chief Court Rules (O.S.), which are as under:-

“126. **Amendment how to be made.** Subject to the provisions of O.I., rule 10(4) of the Code, if in any amendment the new matter can conveniently be entered on the original proceeding, such proceeding shall be amended by an interlineating or if the amendment be by omitting some original matter, the same shall be struck out of the record. Such amendment or variation shall be made in red-ink and shall be initialled by the Registrar (O.S.) in all other cases an amendment proceeding shall be filed and annexed to the original.”

“127. **Attestation of amendment.** The attestation of any amendment under O.II rules 6 and 7, O.VI rules 16 and 17, O.VII rule 11 and O. XXI rule 17 of the Code shall, unless otherwise ordered by Court, be done by the Deputy Registrar.”

In case of Amalgamated Commercial Traders (supra) it is observed as under:-

“It is clear from Mullah’s Civil Procedure Code 12th Edn., Volume I at page 593, that every Court has an inherent power, quite independently of Order VI, Rule 16, C.P.C to strike out scandalous matter in any record or proceeding. In *Christie v. Christie*, (1863) 8 Ch A 499 it is stated that the court has a duty to discharge towards the public and the suitors, in taking care that its records are kept free from irrelevant and scandalous matter. IN *In re Clive Durant*, ILR 15 Bom 488 the High Court of Bombay refused to allow an application for bail containing defamatory allegations against the trying magistrate to be filed and ordered it to be returned. In *Zamindar of Tuni v. Benayya*, ILR 22 Mad 155, the High Court of Madras ordered the objectionable passages in a Memorandum of appeal alleging partiality against the Judge who decreed the suit to be expunged. Thus under S.151 CPC it is open to the court to expunge scandalous allegations which are irrelevant to the proceedings, even if they are contained in an affidavit. But as pointed out in the passage in Mulla referred to above it must be noted that nothing can be scandalous which is relevant.”

Learned counsel for defendant has argued that these Rules are not applicable as same relate to joining or striking of parties. Worth to add here that the procedure is provided under Rule 126 of the Sindh Chief Court Rules, to be followed by the office. Candidly remarks were expunged, but record reflects that in pleadings i.e. written statement and counter affidavit there is no such endorsement by the office in any manner. Office is required to comply with the order but patently has not complied with it and none has challenged this order therefore in case if no endorsement is made in the pleadings, order whereby such remarks were expunged would be of no use. Consequently, instant application is allowed. The Deputy Registrar (O.S) is directed to make endorsement in red ink.

Adjourned to 01.04.2015. No further adjournment would be granted on any pretext and all listed applications would be heard on the next date. In case learned counsel for plaintiff fails to proceed with stay application, interim orders would be recalled automatically.

Interim order passed earlier to continue till next date.

Imran/PA

J U D G E