

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

High Court Appeal No.486 of 2024

Syed Muhammad Anas
Versus
Shell Pakistan Limited

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
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Present:

Mr. Justice Muhammad Shafi Siddiqui, CJ
Mr. Justice Jawad Akbar Sarwana.

Fresh Case

1. For orders on office objection a/w reply at "A".
2. For orders on CMA No.2981/2024 (Exemption).
3. For hearing of main case.
4. For orders on CMA No.2982/2024 (Stay).

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Dated 20.11.2024

Mr. Mujtaba Sohail Raja, Advocate for the Appellant.

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Muhammad Shafi Siddiqui, CJ: Mr. Tahmasp Rasheed Rizvi,

Advocate files Vakalatnama on behalf of the Respondent along with certain documents, which are taken on record.

2. We have heard the two learned counsel in attendance and perused the record.

3. There seems to be an application under Section-20 of the Arbitration Act, 1940 pending adjudication wherein an application bearing CMA No.17514/2021 [*injunction application*] was also pending adjudication. Learned counsel for the appellant is of the view and he argued on the basis of record that it was never fixed before the learned Single Judge during last four years except on the last two occasions when an urgent application was moved by the Respondent and on the following date it was not proceeded; it was not as shown in the order that the appellant consistently remained absent. He relied upon the diary sheets and claimed that it was consistently discharged by the office.

4. Mr. Rizvi, learned counsel for the Respondent, as far as the fixation of the matter is concerned, has not opposed these facts, however, submits that once he moved an urgent application, he (*plaintiff's counsel*) remained absent on the following date and that has tempted the learned Single Judge that since it was pending for last four years, the application ought to have been dismissed for non-prosecution.

5. We are of the view that the action taken by the learned Single Judge is a harsh one and since the matter was not fixed for last four years, an opportunity ought to have been provided to the appellant for the disposal of the application on merit, only then perhaps the impugned attempt could have been made for the dismissal of the application for non-prosecution.

6. We are of the view that the application [*CMA No.17514/2021*] be restored and all pending applications including the one under Order-VII Rule-11 CPC filed by the Respondent be heard in priority along with injunction application bearing CMA No.17514/2021.

7. It seems that certain events may have taken place after the dismissal of the injunction application, hence in view of the above, we would direct the parties to maintain status-quo. The appellant, however, is at liberty to move any appropriate application for aforesaid issue, which they feel proper on account of pendency of the suit, as required under the law.

8. The instant High Court Appeal stands disposed of along with listed applications.

CHIEF JUSTICE

JUDGE

Ayaz Gul