

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

High Court Appeal No.503 of 2024

Summaya Rehman and others
Versus
Khalid Inam and others

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
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Present: -
Mr. Justice Muhammad Shafi Siddiqui, C.J &
Mr. Justice Jawad Akbar Sarwana.

Fresh Case

1. For order on CMA No.3132/2024 (U/A)
2. For order on office objection a/w reply as at "A".
3. For order on CMA No.3133/2024 (Exemption).
4. For hearing of main case.
5. For order on CMA No.3134/2024 (Stay).

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Dated 10.12.2024

M/s Arshad Tayebaly and Abdul Ahad, Advocates for Appellants.

Mr. Ahmed Ali Hussain, Advocate for Respondent No.1.

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Muhammad Shafi Siddiqui, CJ.- The order impugned in this appeal is arising out of suit No.585/2022. Learned counsel, Mr. Arshad Tayebaly has taken us to the earlier proceedings in the suit whereby initially a preliminary decree was passed which later followed by yet another injunctive order.

2. It is Mr. Arshad Tayebaly's case that when they [*Respondent No.1*] have failed in an attempt earlier to obtain injunction in respect of properties, they moved yet another application in respect of the properties, most of which does not form part of the pleadings. Such properties are not disclosed in para-16 of the application and except the properties under the heading of Mrs. Summaya Rehman, none of the properties, such as those under the name of Shazia Naveed, Khurram Inam and Asif Inam formed part of the pleadings. It is claimed that this is against the settled principle of law that when in respect of any property a final decree cannot be passed, no injunctive order could be granted.

3. Mr. Ahmed Ali Hussain, learned counsel for Respondent No.1 has attempted to place on record the written statement, and also, in response to his arguments that initially a lot of amount was syphoned off which fetched these properties and hence during the proceedings it was disclosed that some of the properties now stood in the name of those individuals referred above, actually bought of such amount.

4. We are of the view that as against the properties which do not form part of the pleadings, an injunction, even under Section-94 CPC, cannot be passed unless specifically pleaded in main plaint. There is nothing to prevent the Respondent either in amending the plaint or to exhaust a fresh legal proceeding in respect of the properties which now came to light.

5. This being a situation, we would not deprive the Respondents from initiating lawful proceedings in respect of the properties, however, in presence of the present set of pleadings, such injunctive order in respect of the properties could only be seen as an alien order. Resultantly, the effect of the status-quo/injunction order in respect of the properties, which does not form part of the pleadings/plaint, will not be applied.

6. The appeal in view of above stands disposed of along with listed applications.

CHIEF JUSTICE

JUDGE

Ayaz Gul