

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Suit No.1510 of 2007

ORDER WITH THE SIGNATURE OF THE JUDGE

For orders on Commisisoner report dated 26.12.2013

22.01.2014

Mr. Muhammad Irfan Haroon, Advocate for the Plaintiff.
Mr. Irfan Ali, Advocate for the Defendant.

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Today this case is fixed for order on Commissioner's report dated 26.12.2013. The counsel for the plaintiff submits that despite getting the consent order for appointment of commissioner for recording of evidence, the defendant's counsel is not willing to proceed with the case. Mr. Irfan Ali, learned counsel for the Defendant on the call was little late. However, when he entered the court room he had an application in his hand and tried to hand over the same to the Reader of the Court. When he was asked that why he has not filed this application in the office, he loudly said that "*Sir, koi qayyamat nahi arahi*". When he was asked that why he is so rude and what he means by "*koi qayyamat nahi arahi*" he repeated and disrespectfully said "*es se koi faraq nahi parta*". On the refusal of Court to receive the application as under the Sindh Chief Court Rules miscellaneous applications have to be filed in office and numbered by the office before listing them for order in court, he changed his stance and submitted that concerned clerk of branch has directed him to file this application in open Court. Since he was not ready to control his aggression himself and he was unnecessarily loud, the case was kept aside till eleven (11:00 a. m) and the concerned clerk was called in Court. At 11:00 a.m Muhammad Hanif Moosa, Assistant of the branch appeared and denied that he has given any directions to the counsel for the Defendant. He further said that learned counsel coerced him to get the

endorsement on the application and took it back from him; however, he has mentioned time of presenting this application since he had come in the afternoon yesterday and knowing well the case had already been sent to roaster branch. Irrespective of the fact that Court staff had directed the counsel or not, the lawyers are supposed to know how to file an application and where to present it and they should at least know the manner of addressing the court. The body language and choice of words of Mr. Irfan Ali Advocate was insulting and contemptuous.

In the context of conduct of Mr. Irfan Ali, Advocate in Court. I feel it necessary to peruse commissioner report. Para-2 of the commissioner's report indicates that the defendants counsel (Mr. Irfan Ali, advocate) after having received copy of the affidavit-in-evidence is taking dates on one pretext or the other. Even a letter sent by the commissioner to him was returned un-served. The commissioner has also annexed copy of the letter, which shows address of Mr. Irfan Ali, Advocate on the envelope. The commissioner has also informed that he has personally phoned the defendants' counsel Mr.Irfan Ali, advocate and his associates to attend the case for evidence of the plaintiff. Mr. Irfan Ali, advocate repeatedly took dates and lastly on 17.12.2013 he got the date on account of illness of his family member and by his consent Commissioner for recording of evidence fixed the case on 10.12.2013. However, on 10.12.2013 he filed a statement before the Commissioner and did not proceed with the matter. Mr.Dilawar Hussain, advocate is Commissioner in this case. He has been appointed commissioner by almost every Judge sitting on Original Side in this Court in thousands of cases and there is hardly any complaint against him that he was a source of displeasure for the parties or their counsel. All these facts are on the record of the file must be examined by the Sindh Bar Council and they should simply ensure that

the Bar Council is conscious of its responsibility. All the above facts and circumstances, constitutes a prima facie case of hindering the work of dispensation of justice by Court and unfortunately Mr. Irfan Ali Advocate appears to be instrumental. It is also a willful attempt to unlawfully undermine the order of the Court for appointment of Commissioner for recording of evidence. Though it is case of contempt of Court in the face of Court, I would prefer to leave it at the discretion of lawyers' body, which claims to be the custodian, protector of lawyers' rights and responsibilities. Lawyers' behaviors in Courts has several time been reported in electronic media. All such news items have always adversely affected the name and respect earned by the institution of lawyer in the recent past. Therefore, I believe it is high time that the conduct of lawyers be carefully checked by Sindh Bar Council and other associations responsible for maintaining the dignity of profession. The conduct of Mr. Irfan Ali, advocate as quoted above, in my humble view was insulting and humiliating.

In view of the interim report of the Commissioner and conduct of learned advocate in Court it is all the more necessary that Bar Council should strictly implement law dealing with conduct of lawyer namely the Legal Practitioners and Bar Council Act, 1973. Therefore, if the Bar Councils and Associations have any role to implement "Cannons of Professional Conduct and Etiquettes" to protect the dignity of the Courts and if in their wisdom the above quoted behavior of Mr. Irfan Ali, advocate is violation of any of the provision of Legal Practitioners and Bar Council Act, 1973, the Secretary Sindh Bar Council should place this order before the Disciplinary Committee of Sindh Bar Council to initiate proceeding against the learned counsel.

Learned Additional Registrar of this Court is also directed to seek explanation of Muhammad Hanif Moosa, Assistant D-I Branch that under what circumstances after getting the application presented by the counsel and putting a note of presentation with signature on it, the application was returned to Mr. Irfan Ali, advocate. Whether he was pressurized or otherwise it is permissible under Sindh Chief Court Rules. Whatever reason, he may give to the Registrar, if the explanation from him is not found satisfactory, action be taken against him.

Copy of this order be sent to the Secretary Sindh Bar Council.

JUDGE

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