

IN THE HIGH COURT OF SINDH AT KARACHI

Suit No. 1278 of 2013

Date

Order with signature of Judge

FOR ORDERS ON CMA NOS:

1. 11390 of 2013 (IF GRANTED)
2. 11391 of 2013 (U/S 151 CPC)
3. 11392 of 2013 (U/O 39 R 1&2 CPC)

09/10/2013:

Mr. Muhammad Ramzan Tabassum, Advocate for the
plaintiff.

1. Granted.
2. Exemption granted but subject to all just exceptions.
3. The plaintiff is to first satisfy the Court that how the dispute between the plaintiff and Defendant No.1 which is only limited to Rs.30,00,000/- can be raised before the High Court. It is also an admitted position from the plaint that there is no privity of business partnership between the plaintiff and Defendant No.1. However, through this suit an attempt has been made to restrain the Defendant No.1 from encashment of the cheques which have been admittedly issued by the plaintiff in favour of Defendant No.1. The value of these cheques is only Rs.30,00,000/-. Learned counsel for the plaintiff is trying to assert that against these cheques a lot of money has been paid to Defendant No.1 in the name of undeclared profit from the business of plaintiff, therefore, the Defendant No.1 may be restrained from encashment of the cheques. The payments made through the cheques as security or otherwise to the Defendant No.1 cannot be unilaterally stopped, the plaintiff if made out a case against Defendant No.1 regarding

this money it can be recovered through these proceedings or he can file suit for recovery. At this stage, the Defendant No.1 cannot be restrained from encashment of cheques which cheques are of June 2013 and we are in October 2013. After four months of the issuance of cheques it cannot be said whether the cheques have been encashed or presented by Defendant No.1 for encashment or not. Within two months automatically these cheques will become only piece of paper and, therefore, no case is made out for interim orders. Issue notice to the defendants for 28.10.2013.

JUDGE

S.Akhtar