

IN THE HIGH COURT OF SINDH AT KARACHI

Suit No. 1511 of 2008

Date	Order with signature of Judge
1.	For hearing of CMA No.4053/2011 (U/S 151 CPC)
2.	For hearing of CMA No.4259/2011 (U/S 151 CPC)
3.	For orders on CMA No.4364/2013 (U/S 151 CPC)
4.	For further order (As no fresh address of Defendant No.2 has been filed)

24/10/2013:

Mr. Ghulam Ali Abbasi, Advocate for the plaintiff.
Mr. Saif Malik, Advocate for Defendant No.1.
Mr. Babar Ali Shaikh, Advocate for applicant/surety.

1. Learned counsel for the plaintiff does not press this application (CMA No.4053 of 2011) which is accordingly dismissed as not pressed.

2. Deferred.

3. This application (CMA No.4364 of 2013) has been filed by the applicant/surety in terms of order dated 26.8.2010 whereby the plaintiff was directed to furnish surety in the sum of U.S. Dollar 32,000.00 or equivalent amount in Pak rupees with the Nazir of this Court. This was as security for the container detention charges to be paid by the plaintiff to Defendant No.1. Today learned counsel for the surety and plaintiff are present in Court. Learned counsel for the surety seeks release of the surety. However, he has not been able to satisfy the Court that under the given circumstances of the case unless another surety replacing him is being placed in Court. If the surety is released what will be the position of the order passed on 26.8.2010. He requested for time after arguing twenty minutes. The grant of time will not change the position of the case.

It is pointed out that earlier on 30.3.2010 the plaintiff had requested for auction of the property in possession of Defendant No.1. The auction proceedings started and the Defendant No.1 offered to bear the expenses of auction proceedings and even the

expenses were borne by Defendant No.1. However, the plaintiffs themselves requested to stay auction proceedings as they brought the present surety. On 26.8.2010 surety was furnished. Today surety wants to get wriggle out of liability of surety and, therefore, position is back to square one as it was on 17th August 2009. All present in Court are again ready to go for auction of the property to discharge the liability of defendant No.1. The counsel for Defendant No.1 says that he has already suffered loss of expenses of earlier auction which was frustrated by the plaintiff. Therefore, this time all the expenses of the auction of the property shall be borne by the plaintiff and surety jointly. In the circumstances, Nazir of this Court is appointed Commissioner to do the exercise of auction of the suit property within two months and submit his report. The applicant and surety are directed to initially deposit Rs.20,000/- within a period of one week failing which the surety will be encashed. Whatever will be desire of applicant and surety in the process of auction shall be honoured or taken care of by the Nazir of this Court.

In view of above CMA No.4364 of 2013 stands disposed.

Adjourned to a date in office.

S.Akhtar

JUDGE