

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI  
Suit No.1211 of 1996

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ORDER WITH THE SIGNATURE OF THE JUDGE

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For arguments  
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**20.12.2013**

Plaintiff in person.

Mr. Khalid Jawed, Advocate for Defendants Nos.1 and 2

Ms. Ashi Siddiqui, Advocate, holding brief for Mr. Khawaja Naveed Ahmed, Advocate

Mr. Basil Nabi Malik, Advocate, Associate of Mr. Munir A. Malik & Company, Advocates for Defendants Nos.6, 7 and 8.  
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Mr. Basil Nabi Malik, Advocate, has no power to address the Court on behalf of defendants Nos.6, 7 and 8, who according to him have since died. Today, he is present in Court, representing the defendants Nos.6, 7 and 8, and says that he will file certain statement to the effect that they are not representing the said defendants.

It is very unfortunate that this case is pending since 1996 and written statement was filed by the defendants Nos.6, 7 and 8 on 26.01.1997 and Mr. Zia-ul-Haq Makhdoom, Advocate, had identified the said defendants. The title of the suit is still the same and the process of printing and publication of the newspaper, daily Dawn, is going on and the learned counsel Mr. Basil has informed today that the written statement seems to have been wrongly filed by the defendants No.6, 7 and 8 because the defendants Nos.6, 7 and 8 are nonentity. The learned counsel has smartly attempted to clarify that the persons, who signed and verified the written statement, had come to the Court in personal capacity. He further says that they were identified but they filed written statement in their personal capacity. He argues that a person should file a written statement in a civil suit in his personal capacity and not for nonentity. However, when confronted with written statement, which does not say that the executant had done it in personal capacity, he had not answered.

Knowing well that they were not impleaded in the suit as a party in personal capacity and yet they filed written statement. If his argument is accepted, the entire proceedings under the impression that the defendants Nos.6, 7 and 8 were served are nullity since the defendants are nonentity and they were wrongly held served with summons in this suit. After 16 years of filing written statement by a very senior counsel, such an argument by an advocate from the office of the same counsel is pathetic. The Court stands deceived by the counsel who represented the defendants Nos.6, 7 and 8 during last 16 years and now the said defendants have been treated by their own counsel as nonentity. Once the written statement was filed by the defendants Nos.6, 7 and 8, how after 16 years the said written statement filed by them is to be treated in personal capacity of executants and not by the defendants. It goes without saying that every printer, publisher and editor who took over such responsibility of the office is responsible for whatever has been done by his predecessor in the said capacity because whoever takes over the office he steps into the shoes of the person who left the said office. These are continuing liabilities attached to the office and not personal liabilities. The listed application under Order I Rule 10 CPC is dismissed.

Mr. Basil is warned that he should not address the Court on behalf of the parties unless his signatures are available on the vakalatnama duly executed by client(s).

To come up for arguments in first week after winter vacations.

JUDGE

*Gulsber/PA*