

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Suit No.486 of 2012

Date Order with signature(s) of Judge(s)

1. For hearing of CMA No.11837/2012.
2. For hearing of CMA No.4601/2012.
3. For hearing of CMA No.649/2012.

21.01.2014.

Mr. Muhammad Nauman Jamali, advocate for the Plaintiff.
Mr. Z. U. Mujahid, advocate for the Defendants.

1. **CMA No.11837/2012.** Learned counsel for the Defendants No.2, 3 and 4 has filed this Application for rejection of Plaint in terms of Order VII Rule 11 CPC on the ground that the Suit is time barred under Article 23 of the Limitation Act. He has further claimed that there is no cause of action.

Perusal of the Prayer Clause of the Plaint, reveals that the Plaintiff is seeking damages on account of frivolous litigation initiated by the Defendants and the cause of action as per the Plaintiff has arisen in the year 1998 when the Defendants had wrongly instituted the Suit, which was dismissed and the Appeal filed by the Defendants was also dismissed by this Court. Apparently there is a cause of action, which started in the year 1998 and it continues since the Defendants themselves admitted after dismissal of the Suit and the Appeal. Now they are before the Honourable Supreme Court of Pakistan. The litigation initiated by the Defendants against the Plaintiff is still pending in the Suit, therefore, it may be continued and cannot be said that there is no cause of action for the present Suit.

In view of the above facts, this Application being premature and misconceived is dismissed.

2. **CMA No.4601/2012.** This Application has been filed for attachment of the immoveable property of the Defendants. However, the learned counsel for the Plaintiff says that before disposal of this Application, the immoveable property, which is seeking to be attached, has been sold out by the Defendants, therefore, learned counsel for the Plaintiff does not want to press this Application with the permission to find out any new immoveable property of the Defendants.

This application is dismissed as not pressed with the permission to the Plaintiff that he is allowed to file similar application for attachment of the immoveable property of the Defendants as and when he finds the same justifiable for attachment.

3. **CMA No.649/2012.** Mr. Z. U. Mujahid, learned counsel for the Defendants has contended that he is not aware about this Application under Section 10 read with Section 151 CPC for stay the proceedings of the instant Suit. Apparently both the learned counsel for the Parties are unable to inform this Court that there is some other litigation pending between the Parties on the same point in this case. Under the facts and circumstances, this application is dismissed.

CMA No.11466/2012. There is another Application under Order VI Rule 4 & 5 read with Section 151 CPC (CMA No.11466/2012) is pending with respect to some compliance to be made by the Plaintiff. Both the learned counsel for the Parties, present in Court, have stated that they have no knowledge as to who has filed this Application.

However, according to the learned counsel for the Plaintiff, he has complied with all such objections taken by the Defendants, therefore, this Application has become infructuous, which is dismissed as such.

JUDGE