

ORDER SHEET

Suit No.1040 of 2014

Date	Order with signature of Judge
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- 1) For hearing of CMA NO.15725/2014
- 2) For hearing of CMA NO.8380/2014

12.01.2015.

Plaintiff present in person
Mr. Khan Muhammad Bangash, Advocate for Defendants Nos.2 to 8
Mr. Munawar Ali and Dr. Shahnawaz Memon, Advocate for Defendant No.9
Mr. Amjad Javed Hashmi, Advocate for Defendant No.10.
Ms. Tabassum Ghazanfar, Standing Counsel

The plaintiff has filed this suit against the award of contract of operation of three Toll Plazas viz; Bahawalpur (Punjab), Ranipur and Jamshoro (Sindh) by the National High Way Authority. The suit has been filed by the plaintiff on the Original Side of this Court, knowing well that none of the tol plaza is situated within the local limits of Karachi and the High Court of Sindh has no jurisdiction to entertain the suit in respect of the property which not situated within the territorial jurisdiction of Karachi Districts. None of the three toll plazas fall within the territorial jurisdiction of this Court and it has rightly been pointed out by the counsel for defendant No.9 through his application under Order VII Rule 10 CPC that even the cause of action has accrued to the plaintiff at Islamabad. The notice inviting tenders for operation of tool plazas was issued by the National Highway Authority at Islamabad and the plaintiff has filed his Financial Evaluation of the Bids of Toll Plaza Contract dated **19.06.2014** at Islamabad. The other issue is that the plaintiff has not been granted any right to collect the octroi from the above mentioned toll plazas, as such, he is operating the three toll plazas on account of his previous contract, which expired on **30.06.2014**. Through this suit, which was not maintainable before this Court on account of territorial jurisdiction, the plaintiff obtained injunction orders and under the cover of injunction orders he is operating three toll plazas and collecting octroi even after the expiry of his own contract without any legal justification. The conduct of the plaintiff before this Court is that after obtaining

the injunction orders his counsel has abandoned the proceedings since 27.06.2014 onwards. Even counter affidavit to the application has not been filed. In view of the above undisputed facts whatever benefits the plaintiff has obtained under the cover of injunction orders are liable to be returned by him and therefore he is directed to deposit the said amount with Nazir of this Court within a period of one month from today. Injunction orders are vacated and the plaint is returned for want of territorial jurisdiction. In case of failure of the plaintiff to deposit the entire amount, which he has recovered under the injunctions orders granted in this suit, the Nazir of this Court after calculating the amount realized by the plaintiff through the injunction orders, will start execution for the recovery of the said amount within 15 days after expiry of 30 days give herein for the deposit of the said amount. The plaintiff is restrained from today onwards to collect even a single penny of octroi of the above three toll plazas, i.e. Bahawalpur, Ranipur and Jamshoro.

The CMA No.15725/2014 is allowed in the above terms and the injunction application being CMA No.8380/2014 stand dismissed.

J U D G E

Gulsher/PA