

ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD

1st Appeal No. 51 of 2010

1st Appeal No. 54 of 2011

1st Appeal No. 55 of 2011

DATE	ORDER WITH SIGNATURE OF JUDGE
6.10.2015	

M/s. Ashfaq Nabi Qazi Asstt: A.G. and Muhammad Humayoon Khan
Standing Counsel & Special Counsel for appellants in 1st Appeal No. 51 of
2010 & 54 of 2011 and for respondents in 1st Appeal No. 55 of 2011.

Mr. Imran Qureshi advocate for respondents

This case is pending since 20.9.2010 and on 29. 9.2015 this case was adjourned at the request of counsel for respondents. It is known to the entire bar of Circuit Court Hyderabad that in old matters I am reluctant to grant adjournment. On 29.9.2015 Mr. Imran Qureshi advocate tried to seek longer date as he wanted to go through a judgment delivered by me in 1st Appeal No. 54 of 2010 by relying on the judgment of Hon'ble Supreme Court of Pakistan reported in PLD 2010 S.C. 745. I had dictated order in 1st Appeal No. 54 of 2010 after hearing the parties in open court and Mr. Imran Qureshi advocate was present in court in some other matters. He wanted a date beyond 9.10.2015 as he knew that this roster is ending on 9.10.2015, however, with his consent all the three cases were adjourned for today. At the time of adjournment of these cases for today (i.e. 6.10.2010) nothing unusual occurred and Mr. Imran Qureshi left the court without any grievance as seven days time was even otherwise enough to go through a judgment which was dictated in court in his presence.

2. Today Mr. Zaman Zeb Jatoi who is an advocate and one of the respondents and represented by Mr. Imran Qureshi, advocate in these appeals has filed an application for adjournment under Order XVII Rule 1 & 2 CPC supported by his affidavit. In all the three cases he has filed identical applications bearing CMA Nos. 1048 of 2015, 1049 of 2015 and 1050 of 2015 respectively. He has used contemptuous language against the court in his affidavit which can be spelt out

from the reading of following part of the affidavit of Mr. Zaman Zeb Jatoi advocate.

4. That when my cases were called, the attitude/conduct was harsh towards my counsel, **even you did not want to hear him on the point of law, and you just wanted to allow 1st C.A. No. 51 of 2010 in favour of advocate Mr. Hamyoon Khan without hearing us**, on the judgment given by your lordship in some other case of Hamyoon Khan on 28.9.2015 as said by you and advocate Hamyoon Khan.
5. What, when my counsel sought time to go through your said judgment on which **you want to allow the above appeal**, your lordship were not inclined to allow him to go through the said judgment passed by you in some other case of Hamyoon Khan but lastly allowed the time with harsh attitude towards my counsel which has given impression of bias.

It is also pertinent to mention here that your Honour is **only interested to proceed the 1st C.A. No. 51 of 2010 and does not want to proceed the other connected civil appeals bearing No. 54 & 55 of 2011 on the same subject matter, just because Mr. Hamyoon Khan does not want to proceed the said connected appeals**, Such a non judicial, harsh and imbalanced conduct or your lordship has given impression of bias which has shaken my confidence and in the interest of justice my cases should not be heard by the Honorable Judge Mr. Justice Nazar Akbar on 6.10.2015 @ 11:00 a.m. since you have already disclosed your mind that you want to allow the C.A. No. 51 of 2010 in favour of appellant without hearing the other connected appeals on the same subject matter. In case of failure of compliance of my above instruction, I shall be constrained to proceed against my counsel for professional misconduct, copy of said notice marked as annexure-1 and receipt of OCS.”

It is interesting to note that before swearing this affidavit the respondent has sent notice through OCS to Mr. Imran Qureshi advocate which, amongst others, contained the following material worth noting.

“I am enrolled as an advocate of High Court and if you proceed my above cases inspite of this letter, I have no other option except to initiate professional misconduct proceedings against you before Sindh Bar Council.

3. The contents of affidavits are not only for seeking adjournment but amounts to contempt of court in the face of court. The repeated use of words like ‘you’ ‘you’ and ‘your’ while addressing Judge of Court is in bad taste and un-

becoming of an advocate. The allegations of biased despite grant of adjournment for seven days constitutes failure of an advocate to discharge his duty towards court as envisaged in the Bar Council Act, 1973.

4. Mr. Imran Qureshi learned counsel who has sought time and was granted one weeks time on 29.9.2015 has not sworn any affidavit to the effect that this court has treated him harshly. However, his presence in court even after having received the aforementioned notice along with his client is indicative of the fact that he is also party to the planned design to insult the court in its face by casting aspersion of “**favouring**” advocate Mr. Humayoon Khan and declaring on oath that the court is “**only interested to proceed the 1st Appeal No. 51 of 2010** and not the connected appeals. Mr. Imran Qureshi, advocate has not advised his client nor returned the brief and therefore, he is equally responsible for an attempt to intimidate the court for seeking adjournment. Be that as it may, atleast after sending notice to his advocate with the threats mentioned above Mr. Zaman Zeb Jatoi advocate was not required to swear false affidavit which carries allegations against the court only to seek adjournment. His language which is highly objectionable is reproduced in bold letters in the above quoted passage from his affidavit.

5. It is known to every member of the bar from Karachi to Larkana that I have not favourites amongst lawyers. However, about favouring Mr. Muhammad Humayoon Khan advocate, suffice is to refer to two of my judgments reported in **2014 MLD 1415** (Province of Sindh through Collector and another v. Jan Muhammad through L.Rs and another) and **2015 YLR 1714** Wali Bhai through General Attorney v. District Judge, Hyderabad and 2 others). In both these judgments Mr. Muhammad Humyaoon advocate has lost cases for his clients. In one of these cases client of Mr. Imran Qureshi advocate was the beneficiary. The incidents of intimidating the courts for petty issues and / or to avoid decision on merits in weak cases are increasing day by day. Earlier reports were coming from the trial courts but now even the High Courts and Supreme Court is also experiencing the same. The case of Syed Ali Zafar advocate decided on 3.9.2015 is recent example from the Honourable Supreme Court. In the case of Syed Ali Zafar the Honourable Supreme court suspended his license for one year because he had also used inappropriate language against the Judge of Honourable Supreme

Court of Pakistan in one of his applications. Despite this precedent I am refraining from taking action by myself and preferring to send the case to the Bar Council.

6. The two learned advocates who were present in this case on the last date of hearing i.e. Mr. Ashfaq Nabi G. Qazi, Assistant Advocate General, Sindh and Mr. Muhammad Humayoon Khan Standing Counsel who is appearing as Special Counsel in these cases state at the bar that the allegation contained in the affidavit of Mr. Zaman Zeb Jatoi advocate are false and frivolous and is an attempt to seek adjournment in most contemptuous way. The Additional Registrar of this court is directed to supply copy of the application and supporting affidavit to them. They should file their comments on the affidavit of Mr. Zaman Zeb Jatoi, advocate by way of affidavits to the Secretary, Sindh Bar Council, preferably within one week.

7. In view of the above facts, before taking action under **Section 54** of Legal Practitioner and Bar Council Act, 1973 against the counsel for respondents namely Mr. Imran Qureshi, advocate and respondent No.4 namely Mr. Zaman Zeb Jatoi advocate, on what is narrated above, I am sending copy of this order to Sindh Bar Council for action under **Section 41** of the Legal Practitioners & Bar Council Act, 1973. The Disciplinary Committee of Sindh Bar Council should initiate proceedings within 15 days of receipt of this order in accordance with law. The Secretary, Sindh Bar Council is directed to file progress of inquiry every month through MIT-II at High Court of Sindh Karachi for my perusal. In case of non-compliance of this order by the Sindh Bar Council this court will be constrained to initiate the proceedings itself.

8. In view of the above the application for adjournment is disposed of.

JUDGE

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