ORDER SHEET
IN THE ISLAMABAD HIGH COURT,
ISLAMABAD

JUDICIAL DEPARTMENT

W.P. No.966 of 2022
Zaheer Zafran
Versus
Additional Sessions Judge, etc**.**

S. No. order proceedings	Date of order proceedings	Order with signatures of judge, and that of parties of counsel, where necessary.
	06.07.2022	Mr. Muhammad Bilal, Advocate for petitioner. Syed Asad Ali Saeed and Mr. Saad Hassan, Advocates for respondents 2 & 3.

By way of instant writ petition, a direction has been sought against the respondent No. 1 (trial Court) to secure signatures of the petiotner and forward the same along with Original Provisional Booking Order Forms bearing No. 3023102, dated 29.05.2019 to the Forensic Science Agency Lahore-FSL for verification and then to proceed further with the **complaint** file by the petitioner under the Islamabad Consumers Protection Act, 1995 **("Act of 1995")**.

2. Precisely, the petitioner booked a vehicle (Altis-1.6) vide Booking Form dated 28.05.2019 from respondents 2 & 3 (Toyota Capital Motors & Indus Motors Company) and received a Computerized Provisional Booking Form No. 3023102 dated 29.05.2019 which he never signed. Afterwards, he was compelled to pay additional amount of Rs. 4,77,000/- out of which Rs. 238500/- have been paid under protest. The petitioner then served the respondents 2 & 3 with a notice for the return of the amount and ultimately filed the complainant.

3. The respondent No. 2 & 3 in evidence tendered Provisional Booking Order ('PBO') dated 29.05.2019 which according to petitioner, bear his fake signatures which has been denied by respondents 2 & 3. The petitioner then filed

an application for sending the original PBO to the Punjab Forensic Science Agency Lahore for expert opinion but the Trial Court adjourned the application to be adjudicated upon after hearing final arguments on the complaint.

4. According to the learned Counsel, in presence of express denial of the petitioner regarding his signatures on PBO, it is incumbent upon the trial Court to get verify his signatures from the expert at the first instance and then to decide the main case. Learned counsel placed reliance upon judgment dated 7.07.2014 passed by the Hon'ble Lahore High Court in W.P. No. 1277 of 2014 "Muhammad Irfan v. The State etc."

5. On the other hand learned Counsel for the respondent besides objecting upon the maintainability of the instant writ petition also repelled the submission advanced by the learned counsel for the petitioner on merit as well. According to the learned counsel, the petition had been filed in vacuum as the application is still subjudice and has not yet been decided either way.

6. Heard, record perused.

7. It is an admitted position that the subject application has not yet been decided. The learned Trial Court in its order dated 22.01.2002 observed that **these applications were filed when partial final arguments have been heard and that these applications may be decided if final arguments are delivered**.

8. Record further reveals that the learned Trial Court reiterated its above observation in a subsequent order dated 22.02.2022 with an addition that **the applications were filed after final arguments and as such it may be adjudged in final arguments whether the applications**

have any nexus with the pleadings as well as evidence available on record.

9. The prayer of the petitioner for sending his signatures for verification, on the other hand, is being repelled by the respondents in terms that copies of Provisional Booking Order-PBO are fatal to the case of the petitioner, sub judice before learned Consumer Court and when he was confronted on this aspect during final arguments, sought an adjournment and then filed the application. It was further argued that petitioner has admitted the documents and the terms and conditions contained therein through other admitted documents.

10. In view of the above contradictory pleas of the parties, the learned Trial Court opted to decide the applications after hearing final arguments to see as to whether the said applications have any nexus with the pleadings as well as evidence available on record. Therefore, in such circumstances, when the petitioner shall have every right to advance his arguments on the point, there arises justification to interfere in the proceedings of the Trial Court particularly when no final order has been passed. This Court cannot indulge the proceedings by stepping into the shoes of the Trial Court which is within its authority to regulate the proceedings in accordance with law on the subject. If this practice is allowed to prevail, then there will be no end to the litigation as every litigant, feeling himself/herself dissatisfied with interlocutory order may prefer to question the same through an application under Article 199 of the Constitution which is an extra ordinary remedy to be invoked where there is no alternate efficacious remedy, there is a departure from law/rules or there is violation of any fundamental right.

11. In view above, there exists no justification to interfere in the proceedings of the learned Trial Court on the subject

in absence of any lawful justification and in absence of any perversity or arbitrariness on the part of the learned Trial Court. Consequently, instant writ petition is **dismissed.**

(ARBAB MUHAMMAD TAHIR)
JUDGE

//*Kamran*//