JUDGMENT SHEET.
ISLAMABAD HIGH COURT, ISLAMABAD,
JUDICIAL DEPARTMENT.

F.A.O No.170 of 2024

United Bank Limited (UBL)
Vs.
Nouman-Ul-Haq

Appellant by:	Mr. Ali Asghar Pasha Khan and Mr. Muhammad Imran Shahid, Advocates.
Respondent by:	Mr. Ghulam Farid Chaudhry, Advocate.
Date of Decision:	**12.02.2025.**

INAAM ANEEN MINHAS, J:- Through the instant appeal, the appellant has assailed the order dated 12.10.2024 **("Impugned Order")**, passed by learned Additional District Judge, Islamabad (West) **("Trial Court")**, whereby right of the appellant to file written statement was closed.

2. The facts, in brief, are that the respondent/plaintiff filed a suit for Declaration, Recovery of Service Benefits along with Compensation against the appellant/defendant bank. The notices were issued to the appellant/defendant, who appeared and sought a date for filing of written statement, the appellant after going through the plaint filed application under Order VI, Rule 2 & 5 and under Order VII, Rule 1 of the Code of Civil Procedure, 1908 **("CPC")**. The respondent contested the application and Trial Court after hearing both the sides directed the respondent vide order dated 15.11.2023 to provide better statement mentioning clear particulars of the matter. Consequent to the order of

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Trial Court, the respondent submitted amended plaint on 08.01.2024. The appellant after going through the amended plaint felt constrained to seek further indulgence of the Court by filing an application under Order 1, Rule 10, CPC. Eventually, the respondent filed second amended plaint, after deleting the names of defendants No. 2 to 8 from the array of defendants. The appellant was directed to file the written statement but the order was not complied with, rather an application under Order VII Rule 10, CPC was filed by the appellant. Trial Court dismissed the application and also struck off right of the appellant to file written statement vide Impugned Order dated 12.10.2024, hence, this appeal.

3. Learned counsel for the appellant contended that Trial Court without deciding the application of the appellant, in which the appellant raised question of territorial jurisdiction, passed the Impugned Order in slipshod manner; that the Impugned Order has been passed in violation of section 24-A of General Clauses Act, 1897 and question of territorial jurisdiction must have been decided before filing of the written statement and u/s 20, CPC Trial Court had no jurisdiction to entertain the suit as neither the cause of action accrued at Islamabad nor the appellant's Head Office is situated within the territorial jurisdiction of Trial Court.

4. Conversely, learned counsel for the respondent stated that the appellant despite availing numerous opportunities could not file its written statement; that the appellant raised objection of territorial objection at the belated stage to linger on the matter; that Trial Court

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has rightly closed the right of the appellant to file its written statement and dismissed the application.

5. I have heard the arguments of learned counsels for the parties and perused the record.

6. Perusal of the record reveals that the respondent filed suit for Declaration, Recovery of Service Benefits along with Compensation on 23.02.2023 before Trial Court, in which the right of the appellant to file its written statement was struck off and his application under Order VII, Rule 10, CPC was dismissed vide the Impugned Order dated 12.10.2024. Before proceeding further, it would be better to mention the dates and short orders reflecting how the proceedings took place before Trial Court.

- On **February 23, 2023**, the suit was admitted and a notice was issued to the appellant for **March 24, 2023**.
- On **March 24, 2023**, power of attorney was filed on behalf of the appellant and the matter was adjourned to **April 27, 2023** for submission of written statement.
- On **April 27, 2023**, the appellant was granted an opportunity to file written statement subject to the payment of cost of **Rs. 5000** and the matter was adjourned to **May 30, 2023**.
- On **May 30, 2023**, an adjournment was sought for submission of written statement and payment of cost and the matter was adjourned to **June 8, 2023**.
- On **June, 8, 2023**, due to a lawyers' strike, the matter was adjourned to **June 23, 2023**.
- On **June 23, 2023**, counsel for ddefendant No. 1 filed an application under **Order VI, Rule 2 & 5 and under Order VII, Rule 1, CPC** and the matter was adjourned to **July 14, 2023** for filing reply to the application.
- On **July 14, 2023**, the matter was further adjourned to **September 14, 2023** for filing the reply.
- On **September 14, 2023**, the Presiding Officer was on leave, the reply to the application was filed and the matter was scheduled for **October 24, 2023**.
- On **October 24, 2023**, learned counsel for the appellant was unavailable, so the matter was adjourned to **November 15, 2023** for arguments on the application.

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- On **November 15, 2023**, application under **Order VI Rule 2 & 5 and under Order VII, Rule 1** was allowed and the respondent was directed to submit **amended plaint** by **December 19, 2023**.

- On **December 19, 2023**, the respondent sought an adjournment for filing the amended plaint and the matter was postponed to **January 8, 2024**.

- On **January 8, 2024**, learned counsel for the appellant received a copy of the amended plaint and the matter was adjourned to **February 12, 2024** for submission of written statement.

- On **February 12, 2024**, the written statement was not filed, a **notice under Order VIII, Rule 10, CPC** was issued to the appellant and the matter was adjourned to **February 21, 2024**.

- On **February 21, 2024**, despite issuance of a notice, the appellant did not submit the written statement. As a result, the matter was adjourned to **March 26, 2024** with cost of **Rs. 5000** and a further notice under **Order VIII, Rule 10, CPC**.

- On **March 26, 2024**, instead of filing a written statement, the appellant submitted an application under **Order I, Rule 10, CPC**, seeking the deletion of defendants No. 2 to 8. The matter was adjourned to **April 22, 2024** for submission of written reply and arguments on the application.

- On **April 22, 2024**, the written reply to the application was filed, the respondent's arguments were heard and the matter was adjourned to **May 6, 2024** for the appellant's arguments on the deletion of defendants No. 2 to 8, subject to cost of **Rs. 5000**.

- On **May 6, 2024**, the appellant's arguments were heard on the application and the matter was adjourned to **May 7, 2024** for orders.

- On **May 7, 2024**, application **under Order 1, Rule 10, CPC** was allowed and defendants No. 2 to 8 were deleted. The respondent was directed to submit an amended plaint and the matter was adjourned to **June 4, 2024**.

- On **June 4, 2024**, the respondent sought additional time to file amended plaint, leading to an adjournment until **July 3, 2024**.

- On **July 3, 2024**, the respondent filed the amended plaint and the matter was adjourned to **September 9, 2024** for submission of the written statement.

- On **September 9, 2024** and **September 26, 2024**, the matter was postponed to **October 8, 2024**, upon the appellant's request for more time to file the written statement.

- On **October 8, 2024**, the appellant's counsel was absent, a final opportunity was granted for filing written statement with a notice and the matter was adjourned to **October 12, 2024**.

- On **October 12, 2024** (**"Impugned Order"**), the appellant did not file written statement rather filed application under **Order VII, Rule 10, CPC,** which was dismissed and right of the appellant to submit written statement was struck off under **Order VIII, Rule 10, CPC** through the Impugned Order.

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7. From the above given details of the dates and short orders, it is unequivocally established that period between filing of the suit and striking of the defense extends to approximately **ONE YEAR SEVEN MONTHS AND TWENTY DAYS** and during this period the suit was taken up for hearing on twenty four dates. Despite the lapse of this considerable time, the appellant failed to submit its written statement to the suit and during this period the appellant was given numerous opportunities to file its written statement before passing of the Impugned Order.

8. Learned counsel for the appellant has not been able to substantiate, through the case record, any justification for the appellant's non-compliance of the order of Trial Court for submission of written reply. Trial Court time and again directed the appellant for submission of the written statement even imposed cost on some dates. However, instead of adhering to the Court's directions, the appellant, on multiple occasions, filed various applications to prevent it from filing the written statement. Such conduct depicts deliberate attempt to evade compliance with the Court's orders and linger on the proceedings. It is a well-settled principle that mere filing of an application on the date fixed for compliance does not, by itself, extend the statutory or judicially prescribed time for compliance unless expressly allowed by the Court. The Courts are duty-bound to ensure procedural discipline and prevent the abuse of process through delaying tactics.

9. The legal process should not be allowed to be misused in a manner that frustrates the dispensation of justice. Courts are duty-bound

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to prevent procedural technicalities from being employed as a tool for delay or injustice.

10. It is evident that in the instant matter, more than 550 days were consumed by the appellant for filing its written statement by filing different applications, which is a classic example of the misuse of procedural law. In these circumstances the striking off of the appellant's defense by Trial Court is justified and in consonance with the established principles of procedural law.

11. Learned counsel for the appellant heavily relied upon section 20 of CPC and emphasized that Trial Court at Islamabad had no territorial jurisdiction to entertain the suit since the head office of the appellant is situated at Karachi and the cause of action accrued to the respondent at Jhelum. To understand the language of section 20, the same is reproduced as under:-

> ***20. Others suits to be instituted where defendants reside or cause of action arises****. Subject to the limitations aforesaid, every suit shall be instituted in a Court within local limits of whose jurisdiction---*
>
> *(a) the defendant, or each of the defendants where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain; or*
>
> *(b) any of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution; or*
>
> *c) the cause of action, wholly or in part, arises*

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12. The above referred section provides the general rule for determining jurisdiction in civil suits. A suit may be instituted where the defendant(s) reside(s) or carry(ies) on business or the cause of action wholly or in part arises and in case of multiple defendants, jurisdiction can be established where any defendant resides (subject to the permission of the Court).

13. On the other hand, learned counsel for the respondent contended that the suit remained pending for almost more than one and half years and during this period the appellant did not raise the question of territorial jurisdiction in the first instance and that section 21, CPC bars to raise objection of territorial jurisdiction at a later stage. To understand the language of section 21, CPC, the same is reproduced as under:-

> ***21. Objection to jurisdiction.*** *No objection as to the place of suing shall be allowed by any appellate or revisional Court unless such objection was taken in the Court of first instance at the earlier possible opportunity and in all cases where issues are settled at or before such settlement and unless there has been a consequent failure of justice.*

14. The above section restricts a party from challenging territorial jurisdiction at later stages. A defendant must raise an objection to territorial jurisdiction at the earliest stage. If not raised at the first instance, the objection is deemed to be waived. Courts are prohibited from entertaining belated jurisdictional challenges.

15. It is clear that section 21, CPC ensures that objections to the territorial jurisdiction must be raised at the first instance and this section prevents from unnecessary delay in the proceedings due to raising of jurisdictional objection at belated stage.

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16. In the instant case the appellant, after receiving summon, appeared before Trial Court and sought adjournment for filing of written reply and in non-compliance twice cost of Rs.5000/- was also imposed and thereafter filed different applications under various provisions of CPC and for this purpose the suit remained pending almost more than one and half year. It is evident that the question of territorial jurisdiction was not raised by the appellant at the earliest stage. It is settled law that if a party does not object to jurisdiction at the earliest stage, they cannot challenge it at a later stage. Reliance is placed upon ***Malik Khan Muhammad Tareen vs. Nasir and Brother Coal Company*** **(2018** SCMR **2121)**.

17. Based on the foregoing legal precedent and the principles of natural justice, this Court holds that procedural law must be interpreted and applied in a manner that furthers the cause of justice. Any attempt to misuse procedure to delay proceedings, suppress evidence, or create artificial technical barriers shall not be permitted.

18. This Court emphasizes that procedure is a tool for justice, not an obstacle to it. Courts must remain vigilant against any attempt to subvert justice through technical loopholes and procedural maneuvering.

19. For the foregoing discussion, the instant appeal bears no merit, therefore, **dismissed.**

(INNAM AMEEN MINHAS)
JUDGE

APPROVED FOR REPORTING

R.Anjam

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