

IN THE HIGH COURT OF SINDH AT KARACHI

Suit No. 704 / 2019

Plaintiffs: **Pakistan Airline Pilots' Association through Mr. Faisal Siddiqui along with Mr. Mohamed Vawda Advocates.**

Defendant No. 1: **Pakistan International Airlines through Mr. Shahzeb Akhtar Khan Advocate.**

Defendant No.2: **Federation of Pakistan through Mr. Ishrat Zahid Alavi, Assistant Attorney General and Mr. Kafeel Ahmed Abbasi Deputy Attorney General.**

For hearing of CMA No. 7316/2019.

Date of hearing: **28.08.2019, 17.09.2019**

Date of order: **27.09.2019**

ORDER

Muhammad Junaid Ghaffar, J. This is an application (CMA No. 7316/2019) filed on behalf of PIA / Defendant No.1 under Order VII Rule 11 of Civil Procedure Code ("**CPC**") seeking rejection of the plaint on the ground(s) so stated in the application and its supporting affidavit.

2. Learned Counsel for the Defendant No.1 ("**PIA**") has contended that instant Suit is barred by law, inasmuch as Order II Rule 2 CPC is applicable; that the cause of action raised in this Suit was already available when Suit No. 514/2019 was earlier filed by the Plaintiffs; that the Plaintiffs in the earlier Suit omitted the reliefs claimed in this Suit by choice, therefore, they cannot, once again sue for the same reliefs; that the prayer clause reflects that the Plaintiffs seek implementation of the Working Agreement which relief was also earlier sought and now the reliefs being sought are common and germane to the same reliefs; that the grievance of the Plaintiffs is in respect of various Administrative orders issued by PIA from time to time, which reliefs ought to have been sought in the earlier Suit; that more or less the cause of action is also

identical; that all grievances were earlier raised in their plaint in Suit No. 514/2019 but they left out the prayers made in this Suit; hence, instant Suit is barred in law; that the argument to the effect that different parties are involved is not relevant for the present purposes; that filing of an application under Section 34 of the Arbitration Act, 1940, is not a bar in filing an application for rejection of the plaint, as both applications have been filed on the same date and listed application is without prejudice to any other right of PIA; that in view of these submissions, according to him, the plaint is liable to be rejected. In support he has filed written synopsis of case law and has relied upon ***Trustees of the Port of Karachi V. Organization of Karachi Port Trust Workers and others (2013 S C M R 238)***, ***Mian Muhammad Iqbal V. Mir Mukhtar Hussain and others (1996 S C M R 1047)*** and ***Hashim Khan V. National Bank of Pakistan, Head Office at I. I. Chundrigar Road, Karachi and Branch Office at M. A. Jinnah Road, Quetta (P L D 2001 SC 325)***.

3. Mr. Mohamed Vawda learned Counsel for the Plaintiff has contended that this application under Order VII Rule 11 CPC is liable to be dismissed as the Defendants have already filed an application under Section 34 of the Arbitration Act, 1940, hence, they cannot claim or seek a relief for rejection of plaint; that admittedly the disputes so raised are covered under the Arbitration Agreement and Plaintiffs are willing for referral of the matter to Arbitration; that the Defendants cannot take both positions by filing applications under Order VII Rule 11 CPC as well as under Section 34 of the Arbitration Act; that merely by saying in the affidavit that the application is without prejudice does not suffice; that Plaintiffs No.2 to 5 were not parties to the earlier Suits; hence, the bar of Order II Rule 2 CPC does not apply; that the Defendant No. 2 i.e. the Federation of Pakistan was also not a party in the earlier Suit; that in this Suit prayer clause (g) is a personal right of Plaintiffs No.2 to 5 in respect of deductions of salaries retrospectively, which itself is an independent right and was never a matter of dispute in the earlier Suit; hence, the bar of a subsequent Suit would not apply; that it is settled law that while considering an application under Order VII Rule 11 CPC the contents of the plaint are to be taken as true

and in both these Suits they are different, hence, the objection is misconceived; that the Working Agreement may be common in both the Suits; but the cause of action, insofar as it relates to the Working Agreement is different, hence, the bar would not apply. In support he has relied upon ***Bank of Credit and Commerce International (Overseas) Ltd. V. The Banking Tribunal for Sindh and Balochistan and 2 others (1990 M L D 309)***, ***Moinuddin Paracha and 6 others V. Sirajuddin Paracha and 23 others (1993 C L C 1606)***, ***Phani Bhusan Mukerjee and others V. Rajendra Nandan Goswami and another (A I R 1947 Calcutta 11)***, ***Mt. Bindo Bibi V. Ram Chandra and others (A I R 1919 Allahabad 270)***.

4. Learned Assistant Attorney General has contended that insofar as the present Suit is concerned, there is some prayer which has been sought against the Federation, and this seems to be a different prayer as compared to the earlier Suit.

5. Mr. Faisal Siddiqui while making his rebuttal to the written synopsis of case law filed by the learned Counsel for PIA has contended that according to him both the applications under Order VII Rule 11 CPC and Section 34 of the Arbitration Act simultaneously cannot be filed at the same time seeking incompatible remedies; that once an application under Section 34 ibid has been filed then the Court cannot adjudicate on any issue including an application under Order VII Rule 11 CPC; that the issue of splitting of claims can even be adjudicated by the Arbitrator; that the Plaintiffs have also filed an application under Section 21 of the Arbitration Act and now the Defendants cannot object to the Arbitration clause; that the case at best could be of Section 10 CPC for staying of one Suit; but in any manner the plaint cannot be rejected under Order II Rule 2 CPC, as the previous Suit has not yet been adjudicated finally; hence, the objection of bar does not apply; that it is settled law that a plaint cannot be rejected in piecemeal, whereas, merely for the fact that the Association of Pilots who is a Plaintiff in both Suits, would not entail rejection of the plaint; that the cause of action and prayer in this Suit is different as the salaries of the Plaintiffs No.2 to 5 are being deducted retrospectively, therefore, it cannot be said that this cause of action had accrued earlier in time when the first Suit

was filed. In support he has relied upon ***Nazeer Ahmed and 9 others V. Nazeer Ahmed (2011 Y L R 121)***.

6. I have heard both the learned Counsel and perused the record. Admittedly, Plaintiff No.1 is a recognized Collective Bargaining Representative of persons comprising Cockpit Crew of PIA, whereas, Plaintiffs No.2 to 5 are serving as Pilots in PIA. It further appears that the terms and conditions of the employment of Pilots in PIA including matters pertaining to service benefits is governed by Working Agreement, the last being concluded in 2011. Admittedly, such Agreement is not in dispute. It further appears that the grievance so raised in this Suit is in respect of various administrative orders and their implementation and so also for enforcement of Working Agreement governing the relationship of Pilots and PIA. It further appears that the Plaintiffs also seek directions for strict implementation of Section 3(6) (iii) of the Pakistan International Airlines Corporation Conversion Act, 2016. Finally, the Plaintiffs No.2 to 5 have also some individual grievance against PIA as they seek refund of salary deductions pursuant to certain administrative orders. It would be advantageous to refer to the prayer clause in this Suit which reads as under:-

- (a) "Declare that the Administrative order No.7/2016, dated 31-05-2016 [**Annex 'K'**], Administrative Order No.12/2016, dated 16-06-2016 [**Annex 'M'**], Administrative Order No.24/2016, dated 22.09.2016 [**Annex 'M-1'**], Administrative Order No.13/2017, dated 28.07.2017 [**Annex 'O'**], Administrative Order No.14/2017, dated 04.08.2017 [**Annex 'O-1'**], Administrative Order No.15/2017, dated 07-08-2017 [**Annex 'O-2'**] are unconstitutional, illegal, malafide and of no legal effect;
- (b) Perpetually restrain the Defendant No.1 from implementing the Administrative Order No.7/2016, dated 31-05-2016 [**Annex 'K'**], Administrative Order No.12/2016, dated 16-06-2016 [**Annex 'M'**], Administrative Order No.24/2016, dated 22.09.2016 [**Annex 'M-1'**], Administrative Order No.13/2017, dated 28.07.2017 [**Annex 'O'**], Administrative Order No.14/2017, dated 04.08.2017 [**Annex 'O-1'**], Administrative Order No.15/2017, dated 07-08-2017 [**Annex 'O-2'**]
- (c) Declare that the Working Agreement 2011-2013 still governs the relationship regarding salaries, emoluments, allowances and other financial benefits of the pilots, between the members of the Plaintiff No.1 and the Defendant No.1, and is still in force till a new working agreement, through mutual consensus, is executed between the Plaintiff No.1 and Defendant No. 1;
- (d) Perpetually direct the Defendant No.1 to implement the Working Agreement 2011-2013 [**Annex 'D'**], regarding salaries, emoluments, allowances and other financial benefits of the pilot, till a new working agreement, through mutual consensus, is executed between the Plaintiff No.1 and Defendant No.1;

- (e) Direct the Defendant No.1 to enter into a new working agreement with the Plaintiff No.1 in relation to salaries, emoluments, allowances and other financial benefits of the pilots, within the time frame as determined by this Honourable Court;
- (f) Direct the Defendant No.2 to issue directions to the Defendant No.1 to strictly implement Section 3(6)(iii) of the Pakistan International Airlines Corporation (Conversion) Act 2016;
- (g) Direct the Defendant No.1 to refund all the salary deductions made from the Plaintiffs No.2 to 5 and other like members of the Plaintiff No.1 in pursuant of Administrative Order No.7/2016, dated 31-05-2016 [Annex 'K'] and Administrative Order No.13/2017, dated 28-07-2017 [Annex 'O'];
- (h) Grant cost of the Suit;
- (i) Grant such further and/or other relief as this Honourable Court may deem just and equitable."

7. It further appears that earlier, another Suit bearing No.514/2019 was also filed before this Court which is still pending and in that Suit Plaintiff No.1 was the same, whereas, Plaintiffs No.2 and 3 were again Pilots working within PIA; however, it may also be noted that Plaintiffs No. 2 & 3 were also at the relevant time elected representatives of Plaintiff No.1. In that Suit the primary grievance of the Plaintiffs was again in respect of compliance of the Working Agreement between Plaintiff No.1 and PIA. In fact in that Suit the prayer was only in a generalized manner in respect of the Agreement, whereas, there was no grievance or specific prayer in respect of any individual Pilot i.e. Plaintiffs No. 2 & 3 in that Suit. The prayer clause reads as under:-

"In view of the foregoing, and in the interest of justice, good conscience and equity, prayed that this Hon'ble Court may be pleased to pass Judgment (and order preparation of a Decree) and to;

DECLARE:

- (i) That the Defendant 9 and / or persons acting under it, through it and /or on its behalf) is bound towards causing unconditional compliance of the terms of the PIAC-PALPA Working Agreement (presently in field);
- (ii) That matters relating to amendment, modification and / or variation of terms contain in the PIAC-PALPA Working Agreement (presently in field) are qualified by virtue of Article 1.5 thereof;
- (iii) (Consequently) That any amendment, modification and / or variation suffered upon the PIAC-PALPA Working Agreement (presently in field) by the Defendant (and / or persons acting under it, through it and / or on its behalf unilaterally is illegal and without jurisdiction;

GRANT:

(iv) A Mandatory Injunction directing the Defendant (and / or persons acting under it, through it and / or on its behalf) to facilitate negotiations for renewal of terms as presently contained in the PIAC-PALPA Working Agreement (presently in field);

(v) A Permanent Injunction restraining the Defendant (and / or persons acting under it, through it and / or on its behalf) from breaching the terms of the PIAC-PALPA Working Agreement (presently in field), including and more particularly by causing any contractual employments and / or induction of Instructors;

(vi) Any other relief(s) deemed permissible, necessary and just in the given circumstances of the case;

(vii) Costs of proceedings.”

8. After filing of this Suit and issuance of notice, PIA has filed one application under Section 34 of the Arbitration Act, 1940 which was presented on 11.05.2019 and on the very same day, this listed application bearing CMA No. 7316/2019 was also filed under Order VII Rule 11 CPC. It is the case of PIA that this application has been filed without prejudice to their rights for pursuing their application under Section 34 *ibid*. Learned Counsel for PIA was, at the very outset, confronted as to maintainability and adjudication of this application under Order VII Rule 11 CPC, as apparently if such an application is entertained and adjudicated, then perhaps, it may have an impact on the adjudication of the other application under Section 34 of the Arbitration Act, 1940, on the ground that PIA has now participated in the proceedings before this Court and to this, the Counsel for PIA has insisted on decision of this application independently. Since, I have only heard arguments on this application under Order VII Rule 11 CPC; therefore, no conclusive finding can be recorded, nor it is so warranted, in respect of the pending application under section 34 *ibid*; however, it may be observed that as and when the said application is dealt with by the Court, the filing of application under Order VII Rule 11 CPC and the consequence thereon will be a consideration for the Court for grant or otherwise of the Section 34 application. Reference in this regard may be made to the case reported as ***Messrs Sprint Energy (Pvt.) Limited through Advisor V. Ahsaanullah and 2 others (2013 C L D 885)***. And again this is notwithstanding the fact that Plaintiff now agrees for

referring the matter to Arbitration after staying the proceedings in this Suit.

9. Coming to the listed application, it may be noted that the precise ground taken on behalf of PIA is to the effect that the Suit is barred in law inasmuch as the provisions of Order II Rule 2 CPC would apply in this case for the reason that the Plaintiffs in the earlier Suit despite disclosing the cause of action in the Memo of Complaint, have not prayed for the reliefs now being claimed; hence, by the operation of law, they are precluded from seeking any such further relief. In support of this contention learned Counsel for PIA has relied upon the judgment of the Hon'ble Supreme Court in the case of ***Trustees of the Port of Karachi V. Organization of Karachi Port Trust Workers and others (2013 S C M R 238)*** and had contended that the Hon'ble Supreme Court in somewhat similar circumstances has been pleased to observe that in such facts, the claims cannot be bifurcated and the party coming to the Court must seek all such reliefs in the first Suit. However, I am not in agreement with this contention of the Defendant's Counsel inasmuch as in the cited case, the proceedings in the earlier round had been finally decided up to the level of Hon'ble Supreme Court and thereafter, a second round of litigation was initiated by the Collective Bargaining Agent of workers of Karachi Port Trust. Secondly, it may also be noted that in that case the dispute was in respect of the applicability of a Golden Hand Shake Scheme and the benefits given to the workers who had opted for such a Scheme. That Golden Hand Shake Scheme in an overall manner was only applicable once and the benefits, if any, were to be derived by the employees only once for receiving payments according to it. They, however, after receiving payments as per the Scheme, had once again come before the Court, after losing one round of litigation to that effect. The issue in that matter was though being persuaded on behalf of a Collective Bargaining Agent which could be termed similar to what Plaintiff No.1 is; however, here in this matter, the Plaintiff No.1 is before the Court in respect of implementation of the Working Agreement, which apparently seems to be a continuous cause. It needs to be appreciated that the Working Agreement is a voluminous document and contains various issues relating to the terms and

conditions of service of Pilots in PIA and it cannot be said that if a Suit has been filed for implementation of the Agreement, then the entire cause of action in relation to the said Agreement has arisen and is already before the Court. In the present Suit, firstly, the Plaintiffs are not the same except Plaintiff No.1, whereas, Plaintiffs No.2 to 5 have raised their individual concern in respect of their cause of action i.e. deduction of salary already paid to them pursuant to the administrative orders. It is to be noted that this cause of action was never part in the earlier Suit and could not have been, as these Plaintiffs have come before the Court individually showing their concern and seeking reliefs to their extent. Admittedly, and as noted from the above prayer clause in the earlier Suit, there was no such relief being sought in respect of any deduction of salaries, which at the relevant time was not even a cause of action for these Plaintiffs.

10. It is also relevant to observe that if the arguments of PIA's Counsel is sustained, then at least the plaint cannot be rejected to the extent of Plaintiffs No.2 to 5 as they were never the Plaintiffs in the earlier Suit and at the most, it would only be applicable on Plaintiff No.1 and resultantly, it would be a case where the plaint is being sought to be rejected in piecemeal; however, it is settled law that firstly while deciding an application under Order VII Rule 11 CPC the plaint is to be considered in its entirety and totality and not in piecemeal. It is further settled that a plaint cannot be rejected in parts and if one cause of action or a claim or a prayer in that regard is not maintainable, the plaint cannot be rejected. Reliance in this regard may be placed on the case of **Muhammad Amin Lasania Vs. M/s Ilyas Marine & Associates (Private) Limited (SBLR 2011 Sindh 989)**, wherein at Para 11, the Court has been pleased to observe that, *a plaint cannot be rejected in part. Therefore, even if the main or primary cause of action is barred, and it is only a secondary (and clearly less important) cause of action that is not, the plaint cannot be rejected in respect of that part which relates to the primary cause of action.*

11. Moreover, it is also to be noted that there may be a case that ultimately the Suit at the trial is dismissed as not maintainable, but on the same issue, it is not necessary that the plaint may also be rejected under Order VII Rule 11 C.P.C. The Hon'ble Supreme Court in the case

of Al-Meezan Investment Management Company Ltd & Others v. WAPDA First Sukkur Company Limited, Lahore, etc. (P L D 2017 SC 1) has been pleased to observe that*suffice it to say that the question of whether a suit is maintainable or not is moot with respect to whether or not a plaint is to be rejected as being barred by law. Both are a different species altogether and it may well be that a plaint is not rejected in terms of Order VII Rule 11 CPC but the Suit is dismissed eventually as not maintainable for a possible host of reasons.*

12. Here in this matter, I am of the view that whilst the Working Agreement in question may be the same; but, apparently, the cause of action is not. Though it may arise out of the same Agreement, but per settled law, if at the time of filing of an earlier Suit, such a cause had not arisen, then a subsequent Suit, (may be in respect of the same property or Agreement), will not be barred under Order II Rule 2 CPC, as the said cause of action was not available when the first Suit was filed. As noted above the word “*cause of action*” as mentioned in Order II Rule 2 CPC has to be understood as to the “*cause of action*” for which a Suit is brought before the Court. In this matter for filing the second Suit apparently the main cause of action is the grievance of Plaintiffs No.2 to 5 whose salaries have been deducted retrospectively on the basis of certain administrative orders. This cause of action was, firstly, not available when the first Suit was filed, and even if so, then these Plaintiffs No.2 to 5 were not Plaintiffs in the earlier Suit; hence, they cannot be thrown out of the Court on the basis of the objections so raised in respect of Order II Rule 2 CPC. Learned Counsel for PIA has relied upon the case of ***Abdul Hakim and 2 others v. Saadullah Khan and 2 others (PLD 1970 SC 63)*** and has made reference to a certain portion of the judgment contained at bottom of pg:65; however, in totality this judgment goes against the case as pleaded by him. The precise facts of that case were that Respondents had sued the appellants for possession of some land which according to them had been illegally occupied and possessed by the Appellants. The Suit was also resisted on the ground that it was barred under Order II Rule 2 CPC as according to them earlier another Suit was filed against them by the same respondents; hence, they could not file a fresh Suit once again. The Hon’ble Supreme on merits observed that the respondents had not sued the Appellants

earlier for the land in dispute, because the land at the relevant time was in their own possession and there was no sense in putting it into litigation, with their other land of which the Appellants had taken forcible possession furnishing them a cause of action for their eviction therefrom. The Court has been pleased to deal with this difference in the cause of actions for which a party comes before the Court. Relevant observations of the Hon'ble Supreme Court which also contains the portion (highlighted) so relied upon by the Counsel for PIA and reads as under:-

"The expression "cause of action" in Order II, rule 2, C.P.C. means the cause of action for which a Suit is brought. In order that the cause of action for the two suits may be the same, it is necessary not only that the facts which would entitle the plaintiff to the right claimed must be the same but also that the infringement of his right at the hands of the defendants complained against in the two suits, must have arisen in substance out of the same transaction. In considering the application of this bar, regard is to be had to the allegations in the two suits without reference to the defence that may be set up by the defendants. As laid down by their Lordships of the Privy Council in *M Muhammad Khalil Khan and others v. Mahbub Ali Mian and others*¹ "the bar under Order II, rule 2 refers entirely to the grounds set out in the plaint as the cause of action or, in other words, to the media upon which the plaintiff asks the Court to arrive at a conclusion in his favour". A rough test, although not a conclusive one is to see whether the same evidence will sustain both suits which would be the case if both the suits are founded on continuous and inseparable incidents in the same transaction. **The question, however, is to be examined in substance and not merely on form as the cause of action in the two suits may be found to be the same, in spite of the facts alleged not being exactly identical in the two cases. It is not open to the plaintiff to split up the parts really constituting the same cause of action and file different suits in respect of them. In other words, a plaintiff must ask for all his reliefs which flow from the grievances caused to him by the infringement of his rights by the defendant in the course of the same transaction, but he cannot and is under no obligation to add to his grievances which did not occur in that transaction.** If two trespasses are alleged against a defendant, both in the course of the same transaction, a plaintiff must seek his remedy in one suit against both and he cannot split up his cause of action to sue for one trespass in one suit and for the other in a subsequent suit. But where the two trespasses allegedly have taken place on different occasions and the second was not in existence at the time of the first suit, as in this case, there was neither any occasion nor any necessity for the plaintiff to seek his redress for the second trespass in the first suit. The second trespass which was committed by the appellants in the present case after the first suit had been filed, gave a fresh cause of action to the plaintiff-respondents which validly formed the subject-matter of their second suit. The plea that the second suit was barred under Order II, rule 2 of the Civil Procedure Code, in the circumstances, is wholly misconceived.

¹ PLD 1948 Privy Council 131

13. Similarly, in the case reported as ***Jeewan Shah V. Muhammad Shah and others (P L D 2006 SC 202)***, the Hon'ble Supreme Court has been pleased to observe as under:-

6. The point which appears to be more significant is that in view of the pendency of second suit, how Order II(3)(1), C.P.C. could have been made applicable because undoubtedly second suit was pending adjudication at the relevant time. It has also been observed that the parties in both the suits were different because in the earlier suit Jeewan Shah, Shahida Bibi, Muhammad Qavi and Abdur Rehman Shah were the plaintiffs while Muhammad Shah, Mazhar Hussain Shah and Muzaffar Hussain Shah were shown as defendants while in the second suit Jeewan D Shah was the plaintiff and Muhammad Shah and Abdur Rehman Shah were shown as defendants. The cause of action also appears to be different as in the earlier suit the genuineness and authenticity of the documents which remained in question were challenged on the basis of coercion, wrongful confinement and threats to, the life of Jeewan Shah whereas in the second suit the above mentioned documents were challenged on the basis of insanity. This aspect of the matter should have been considered prior invoking to the provisions as contained in Order VII, Rule 11, C.P.C.

7. No doubt that at later stage the factum of insanity was challenged but how it could have been done by Muhammad Shah as the suit for jactitation of marriage was also filed by Muhammad Shah on behalf of Jeewan Shah on the basis of insanity which was in the knowledge of Muhammad Shah by whom it was exploited on every occasion. As mentioned hereinabove, the plea of insanity was also raised in a categorical manner by Muhammad Shah before different Revenue forums/Civil Courts. We are also of the considered view that the provisions as contained in Order II, Rule 2, C.P.C. cannot be made applicable without having gone through the entire evidence and peculiar circumstances of the case which was never done. The question as to whether the provisions as contained in Order 32, C.P.C. could have been ignored in this case, also deserves consideration. In such view of the matter the judgment impugned passed by the learned High Court as well as learned District Judge, Multan are hereby set aside and the second civil suit shall be treated as pending to be disposed of in accordance with law on merits after recording the evidence and affording proper opportunity of hearing to all concerned without being influenced from any observation made hereinabove.

14. Though after having observed as above, the question to the effect that parties to the earlier Suit were same and identical or not, is not of much relevance; however, barring few exceptions, this principle is also well settled that while considering rejection of plaint or dismissal of a Suit being barred in terms of Order II Rule 2 CPC, the parties must be same in both the Suits. As to the bar of Order 2 Rule 2, C.P.C, such contention is also erroneous since the bar under that provision, for filing a subsequent suit on a cause of action or relief relinquished in a given suit, applies only to the parties, as they are arrayed in such suit, and does not apply to a person who was not party to the previous suit

at all². Order 2, Rule 2, Civil P.C. is, however, not based upon the doctrine of merger. It enacts a special rule that if the plaintiff was able to claim a wider and much larger relief than that to which he limited his claim in the suit, and which arises out of the same cause of action he would not be entitled to recover the balance in a subsequent suit. The object of the rule is to prevent the splitting up of the same cause of action and to prevent the same person or persons being vexed twice. To make the rule applicable two things are essential: First that the previous and the present suits must arise out of the same cause of action; and secondly, they must be between the same parties³.

15. In view of hereinabove facts and circumstances of this case I am of the view that in this matter, the bar contained under Order II Rule 2 CPC would not apply, as firstly, the cause of action is not the same, though the question of interpreting the Working Agreement may be; and secondly, the parties to this Suit are not the parties in the earlier Suit, including the Plaintiffs No.2 to 5, as well as Defendant No.2, the Federation of Pakistan, who owns majority shareholding in Defendant No.1, PIA. In fact, this is a case of a recurring cause insofar as the implementation of the Working Agreement is concerned. Accordingly, the listed application merits dismissal, and it is so ordered.

16. Application under Order VII Rule 11 CPC stands dismissed.

Dated: 27.09.2019

J U D G E

ARSHAD/

² Bank of Credit and Commerce International (Overseas) Ltd. V. The Banking Tribunal for Sindh and Baluchistan (1990 MLD 309)

³ Phani Bhusan Mukherjee and Ors. vs. Rajendra Nandan Goswami and Ors. (AIR 1947 Calcutta 11)