

ORDER SHEET
LAHORE HIGH COURT, BAHAWALPUR BENCH,
BAHAWALPUR.
JUDICIAL DEPARTMENT

RFA No.44 of 2023/BWP
 National Highway Authority, etc.
versus
 Mehmood ul Hassan, etc.

<i>Sr. No. of order/ Proceedings</i>	<i>Date of order/ Proceeding</i>	<i>Order with signature of Judge, and that of Parties' counsel, where necessary</i>
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21.10.2024 Mr. Ahmad Usman Khan Miana, Advocate for applicants/appellants-NHA.
 M/s Khadim Hussain Khan, Advocate; Abdul Basit Khan Baloch, Advocate and M. Rashid Khan Baloch Advocate for respondents.

C.M.No.7078 of 2023

This is an application filed by appellants (who were defendants No.5, 6 & 7 in the Reference filed before the learned Senior Civil Judge, Rahim Yar Khan/Trial Court) to the effect that written statement on behalf of the appellants-defendants remained unsigned inadvertently; the learned counsel for applicants/appellants submits that at any time, in terms of Order VI rule 14 CPC, the irregularity of non-signing of pleadings could be rectified/cured.

2. The respondents (who were plaintiffs before the Trial Court) filed contesting reply to instant application in the form of application under Section 151 read with Order VI rule 14 CPC which has been numbered as C. M. No.3334 of 2024/BWP (perhaps inadvertently), whereby it has been claimed that the instant application (C.M. No.7078/2023) is liable to be dismissed as after decision of Reference, permission for signing the pleadings cannot be granted. Further states that said defendants/applicants had not put appearance as witnesses in the Court in support of their written statement, therefore, signing of the pleadings could not be permitted.

3. Be that as it may, Order VI rule 14 CPC provides as under:

"14. Pleading to be signed.- Every pleading shall be signed by the party and his pleader (if any):

Provided that where a party pleading is, by reason of absence or for other good cause, unable to sign the pleading, it may be signed by any person duly authorized by him to sign the same or to sue or defend on his behalf."

4. Perusal of written statement shows that it was signed and filed on behalf of respondents No.5 to 7 by their learned counsel who had been engaged to represent them, therefore, the same appears sufficient compliance of provision of Order VI rule 14 CPC. Furthermore, signing of written statement by any person with authority on behalf of department would be treated as signing by all the defendants relating to said department which is in accordance with law in terms of Judgments reported as Ismail and another v. Mst. Razia Begum and 3 others (1981 SCMR 687) and Messrs Liberty Car Parking (Pvt.) Ltd through Director v. Commissioner Inland Revenue (Ex-Commissioner of Income Tax/Wealth Tax), Lahore and others (2021 SCMR 375), which provide that in cases where pleadings had been signed by one of its officers, the same could be accredited by the company by express or implied action; furthermore, non-signing of pleadings was not an illegality rather a mere technicality/irregularity which could always be cured as the same is a curable defect. Besides, it is imperative that justice should be done instead of knocking out the parties on technicalities and no prejudice shall be caused to any of the parties if said defect is allowed to be cured; hence, we allow the instant application and grant permission to appellants to sign the written statement in the office of Deputy Registrar (Judicial) of this Court as LCR has

been requisitioned in compliance of order dated 07.03.2023 of this Court.

5. In view of above, as the miscellaneous application (C.M. No.3334 of 2024/BWP) which is actually the reply of the instant application (C.M.No.7078/2023) has wrongly been numbered by the office, it is also **disposed of** accordingly.

MAIN CASE

6. Relist on a date in office.

KMS Subhani