

Form No: HCJD/C-121.

JUDGEMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

FAO. No. 34 of 2019

Mubeen Shahid, etc

Vs

Higher Education Commission of Pakistan

APPELLANTS BY: Mr. Muhammad Saqib Qadeer, Advocate.

RESPONDENT BY: Mr. Binyamin Abbasi, Advocate.

DATE OF HEARING: 02-05-2019.

ATHAR MINALLAH, CJ.- This appeal is directed against order, dated 06.02.2019 passed by the learned Civil Judge, 1st Class (West), Islamabad.

2. The facts, in brief, are that the Higher Education Commission of Pakistan (hereinafter referred to as the "**Commission**") filed a suit on 22.02.2018, against the appellants. The latter filed an application under Order VII Rule 10 of the Code of Civil Procedure, 1908 (hereinafter referred to as the "**CPC**"). The said application was dismissed vide order, dated 06.02.2019. It is the case of the appellants that since they reside at Lahore and all the documents were also executed outside the territorial jurisdiction of the learned Civil

Court, Islamabad, therefore, the proceedings at Islamabad are not competent. The learned trial Court vide the impugned order has dismissed the application on the ground that the cause of action had arisen within its jurisdiction.

3. The learned Counsel for the appellants has been heard at length. He has placed reliance on the judgments titled "*Messrs Pakistan Ordinance Factories through Manager Legal, Wah Cantt and 3 others Vs. Chelsea Global Private Limited*" [2017 CLC 918], "*Muhammad Askar Khan Vs. Agha Ejaz Hussain*" [PLD 1994 Peshawar 5], "*Muhammad Yasin and 2 others Vs. Ch. Muhammad Abdul Aziz*" [PLD 1993 Supreme Court 395] and "*Bangladesh Shipping Corporation Vs. Syed Muhammad Anwar Iqbal*" [1992 CLC 1500] in support of his contention that the learned trial Court at Islamabad is not vested with jurisdiction to proceed in the matter. The learned Counsel has stated that the offer was accepted at Lahore and the appellants also reside outside the territorial jurisdiction of the learned trial Court at Islamabad. Hence, the suit is not competent at Islamabad.

4. The learned Counsel has been heard and the record perused with his able assistance.

5. It is not denied that the offer was made by the Commission and that the official formalities were completed at

Islamabad. It is an admitted position that the Commission is situated within the territorial jurisdiction of the learned trial Court at Islamabad, where the suit is pending. There is no force in the argument raised by the learned Counsel for the appellants that since the offer was accepted at Lahore and the appellants reside there, therefore, the learned trial Court at Islamabad is not vested with jurisdiction. The learned Counsel for appellants could not satisfy this Court that the learned trial Court at Islamabad, where the suit has been instituted, lacks jurisdiction.

6. For what has been discussed above, the instant appeal is without merit and, therefore, accordingly dismissed.

CHIEF JUSTICE

Asif Mughal.