

JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT,
ISLAMABAD

CASE NO. : C.R. NO.221-2015

Mumtaz Hussain

Vs.

**Country Director, Islamic Relief UK, Pakistan Country Office, Islamabad &
Another**

Petitioner by : Raja M. Tariq Khan, Advocate
Respondents by : Mr. Abid Hussain, Advocate
Date of decision : 09.09.2020

AAMER FAROOQ J. The petitioner namely Mumtaz Hussain filed a Suit for recovery of Rs.19,92,928/- against the respondents. It was alleged in the plaint that initially, the petitioner was employed by respondents as Field Engineer from January, 2006 to December, 2008 and subsequently, his services were engaged as Consultant for laying down Master Plan of Jalozai Camp Nowshehra, which he satisfactory did so from Phase-II to Phase-IV and when the bills were submitted for Rs.7,40,417/- and Rs.2,56,047/-, which were then discounted but in the suit, the entire amount has been claimed. The suit of the petitioner was dismissed by learned trial court vide judgment and decree dated 29.04.2014/. The appeal filed by the petitioner was also dismissed by learned appellate court vide judgment dated 24.01.2015, hence the petition.

2. Learned counsel for the petitioner, *inter alia*, contended that the courts below misread and nonread the evidence, as there is clear evidence to the effect that there was a contract/agreement between the parties and pursuant thereto, the petitioner tendered his bills which were not paid. In this behalf, he drew attention of the Court towards various emails sent

and received by the petitioner and were marked in evidence as Mark-A to Mark-J. In support of his contentions, learned counsel placed reliance on case reported as 'Treat Corporation Ltd. Vs. Elmac Limited through Liquidator and another' (2011 YLR 2825).

3. Learned counsel for the respondents, *inter alia*, contended that there is no misreading or non-reading of evidence; that the petitioner failed to prove that there was an agreement between the parties and that services of petitioner were hired for development of master plan.

4. Arguments advanced by learned counsel for the parties have been heard and the documents, placed on record, examined with their able assistance.

5. The bare perusal of the evidence shows that entire documentary evidence has been tendered in evidence as 'Mark' that too was led by learned counsel for the petitioner/plaintiff. It is trite law that 'Mark' has no evidential value; reliance is placed on case reported as 'State Life Insurance Corporation of Pakistan and another Vs. Javaid Iqal' (2011 SCMR 1013). Even-otherwise, a private document cannot be tendered in evidence by the counsel; the maker of the same has to enter in the witness box to establish the veracity of same. Neither any effort was made to establish the contents of emails through independent evidence nor even permission was sought to adduce evidence in the electronic form of communication.

6. There is nothing on record that establishes an agreement between the petitioner and the respondents and that he rendered consultancy services pursuant thereto.

7. The findings arrived at by learned trial court as well as learned appellate court do not suffer from any misreading or non-reading of evidence. It is a trite law that where there is concurrence findings of facts, the same are not to be interfered with unless misreading and non-reading are so grave that the same leads to illegality. In the instant case, findings of learned trial court as well as learned appellate court do not suffer from such illegality or jurisdictional error.

8. In view of above, instant civil revision is without merit and is accordingly dismissed.

(AAMER FAROOQ)
JUDGE

Zawar