

Form No: HCJD/C-121.

**ORDER SHEET**

**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**  
**JUDICIAL DEPARTMENT**

FAO No. 93 of 2014

Ch. Mohammad Aslam  
Vs  
Ch. Mohammad Ismail, etc.

<b>S. No. of order/ proceedings</b>	<b>Date of order/ proceedings</b>	<b>Order with signature of Judge and that of parties or counsel where necessary.</b>
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- 03) 03-06-2019. M/s Mushtaq Hussain and Raja Zaheer Advocates,  
for the appellant.  
Mr Rabi bin Tariq, vice learned Counsel for  
respondent no. 3.

This appeal is directed against order, dated 25-09-2014, passed by the learned Civil Judge 1<sup>st</sup> Class, Islamabad-East, whereby application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 (hereinafter referred to as the "**CPC**") was dismissed.

2. The facts of the case have been narrated in detail in the impugned order.

3. The learned Counsel for the appellant has been heard at length. The learned Counsel has argued that the learned trial Court had erred in placing reliance on the cheque, dated 23-09-2003, a copy whereof has been attached with the plaint. The learned Counsel has argued

that the cheque was not drawn in favour of the owner of the property and, therefore, the learned trial Court has misread this crucial document.

4. The learned Counsel was asked whether the principle of *lis pendens* is attracted in this case. He has answered in the affirmative but has stressed that in case an injunctive order is not granted then it would result in multiplicity of litigation.

5. The record has been perused with the able assistance of the learned Counsel. This Court is satisfied that the learned trial Court has not exercised its jurisdiction in an arbitrary or fanciful manner. The learned Court has rightly referred to the record in concluding that neither a prima-facie case was made out nor the appellant would suffer an irreparable loss. Moreover, since admittedly the principle of *lis pendens* is attracted in this case, therefore, one of the ingredients for grant of an injunctive order i.e. irreparable loss, does not exist.

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

**CHIEF JUSTICE**