

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

C.R. No.364-2019

M/s 7 Sky Digital Marketing Pvt. Ltd. Islamabad

Vs.

M/s Sidrah Interiors Pvt. Ltd. Islamabad

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	30.09.2019	Syed Muhammad Ali Hamdani, Advocate for petitioner.

Through the instant petition, the petitioner has assailed order dated 11.09.2019, whereby appeal filed by him, was dismissed.

2. The facts, in brief, are that petitioner instituted a suit for declaration and injunction against the respondents. Along with the suit, application for interim relief was filed; the ad-interim relief was turned down and notices/summons were issued to the respondents. The petitioner challenged the referred order by way of appeal, which was dismissed vide the impugned judgment dated 11.09.2019.

3. Learned counsel for the petitioner, *inter alia*, contended that since the work has not been done by the respondents hence the petitioner requested to stop payment of cheque in question and same was sought to be stayed. It was submitted that *prima facie* case is made out in favour of the petitioner.

4. Arguments head. Record perused.

5. The claim of the petitioner, in the Suit as well as in the application, is that since a significant amount has been paid to the respondents and some of the work was not done hence declaration be issued that the cheque in question is null and void. It is the case of the petitioner that in case cheque is encashed, excess payment would go to the respondents which will create complications. The question involved, in the instant petition, is

monetary hence there is no irreparable loss to the respondents.

6. The fact, that payment has been misused by the respondents or excess payment has been made, is a question of fact, which cannot be resolved without recording evidence.

7. Moreover, there is criminal proceeding against the petitioner as well, as observed by learned trial court.

8. Even-otherwise, application for interim relief is still pending and has not been decided so far. The grant of ad-interim relief is based upon discretion of learned trial court depending upon facts and circumstances and the principles of law involved. There is nothing on record to show that discretion has been exercised by learned trial court and the learned appellate court in an arbitrary and whimsical manner, hence there is no jurisdictional error in the impugned judgment.

9. For the above reasons, instant Civil Revision is without merit and is accordingly dismissed in limine.

(AAMER FAROOQ)
JUDGE