

Form No: HCJD/C-121
ORDER SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Writ Petition No.4136 of 2022

Akaash Ismail.
VS
Muhammad Ismail and another.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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03.	16.01.2023	Mr. Muhammad Inaam Mughal, Advocate for the petitioner. Mr. Muzammil Din Choudhry and Mr. Adeeb Ahmed Abbasi, Advocates for respondent No.1.
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Objection Case No.845 of 2023.

As the main case is disposed of, therefore, office objections are **sustained** and file be consigned to the record room.

Main Case.

Through the instant petition, the petitioner has challenged order dated 16.10.2021, passed by learned Civil Judge 1st Class, East-Islamabad, whereby right of the petitioner to file written statement has been closed.

2. During the course of arguments, it transpired that suit against the petitioner was filed on 18.06.2019; on 09.03.2020, Mr. Irfan Shabbir Kayani, Advocate filed Memo of Appearance, wherein he has mentioned that he has not been instructed by the client rather he came to know regarding pendency

of the suit through the cause list of the Court and submitted Memo of Appearance and also mentioned that on the next date of hearing he will submit *Wakalatnama* but on the next date of hearing neither learned counsel submitted *Wakalatnama* nor any notice was issued to the petitioner. Learned Trial Court was required either to receive *Wakalatnama* or issue notice to the petitioner for appearance but the same procedure has not been done; attendance of the petitioner was marked and subsequently cost of Rs.2,000/- was imposed upon him.

3. By bare perusal of the order sheet and hearing the arguments of learned counsel for the parties, it transpired that impugned order dated 16.10.2021, is not sustainable under the law as the same is illegal, has been passed in violation of the principle of "Audi Alteram Partem", hence the same is set-aside. Learned Trial Court is directed to grant one and final opportunity to the petitioner for submission of *Wakalatnama* as well as written statement with cost of Rs.10,000/- (Rupees Ten Thousand Only).

4. With the above direction, instant writ petition is **disposed of**.

(TARIQ MEHMOOD JAHANGIRI)
JUDGE