

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Mr. Justice Iftikhar Muhammad Chaudhry, HCJ
Mr. Justice Khilji Arif Hussain
Mr. Justice Tariq Parvez

Civil Misc.Appeal No.1 of 2012

In

Const. Petition No.Nil of 2011

Against order of Registrar of this Court,
dated 30.12.2011.

F. K. Butt

Petitioner

VERSUS

President of Pakistan, etc

Respondents

For the Petitioner(s) : In person.

On Court's Notice : Maulvi Anwarul Haq, AGP.

Date of Hearing : 07.02.2012

ORDER

Iftikhar Muhammad Chaudhry, CJ-. This Civil
Miscellaneous Appeal has been filed under Order V Rule 3 of the
Supreme Court Rules, 1980 against the following order of
Registrar of this Court, dated 30.12.2011:-

*"The above cited Constitution Petition filed by you
under Article 184(3) of the Constitution of Islamic
Republic of Pakistan, 1973 is not entertainable on
the following grounds:-*

- 1. President and Prime Minister of Pakistan have been made party as respondent No.1 & 2, however they cannot be made party under Article 248 of the Constitution of Islamic Republic of Pakistan.*
- 2. That you have no locus standi to file this Const. Petition.*
- 3. That you have not provided the certificate as required under Order XXV rule 6 of the Supreme Court Rules, 1980.*

4. *That apparently, none of your Fundamental Right guaranteed by Constitution, has been violated.*
5. *That you may approach the proper forum for redressal of your grievance.*

This Constitution Petition is, therefore, returned herewith in original being not entertainable along with its paper books."

2. Appeal against the above order is competent before a learned Judge in Chambers in terms of Order V Rule 3 of the Supreme Court Rules, 1980. However, instead of disposing of the listed Civil Misc. Appeal in Chambers, it was ordered to be enlisted in Court under Order V Rule 5 of the Supreme Court Rules, 1980, which reads as under:-

"5. The Registrar may, and if so directed by the Judge in Chambers, shall at any time, adjourn any matter and place it before the Judge in Chambers, and the Judge in Chambers may at any time refer any matter to the Court and the Court may direct that any matter shall be transferred from the Registrar or the Judge in Chambers to the Court."

3. The learned Attorney General for Pakistan has stated that some of the objections have been removed. However, when we have inquired from him as to whether the question of maintainability or otherwise of the petition can be determined by the Registrar, he replied in affirmative. In this behalf, his attention has been drawn towards a judgment of this Court in the case of All Pakistan Newspapers Society v. Federation of Pakistan (PLD 2004 Supreme Court 600). On this, the learned Attorney General has submitted that subject to all, just and legal exceptions, the Appeal under Order V Rule 3 of the Supreme Court Rules, 1980 may be entertained allowing the respondents to raise the question of maintainability at the relevant time.

4. As the petitioner is aggrieved from the objections raised by Registrar of this Court, vide order dated 30.12.2011, therefore, having examined the same in the light of the judgment noted hereinabove as well as the relevant rules and also after hearing the learned Attorney General for Pakistan, whom notice was given, the listed Civil Miscellaneous Appeal is allowed, subject to all, just and legal exceptions and the office is directed to entertain the petition, in accordance with law.

Chief Justice

Judge

Judge

ISLAMABAD

07.02.2012

Zubair