

IN THE COURT OF IXTH SENIOR CIVIL JUDGE KARACHI SOUTH

New Civil Suit No.434/2025
HC Civil Suit No. 111 of 2023

K-Electric.....Plaintiff.

Versus

Asad Ali Shah.....Defendant.

ORDER
02-12-2025

By this order, I intend to dispose of an application under order 39 Rule 1 & 2 CPC R/w section 151 CPC, filed by Advocate for plaintiff with prayer that this Honourable Court may be pleased to restrain the defendant from directly or indirectly publishing, circulating or issuing any statements/comments in relation to the business and/or affairs of the plaintiff to third parties and/or from publishing any content in relation to the plaintiff in any form interalia including in print, broadcast, social and/or electronic media and/or form participating in any interviews, podcasts, programs in relation to the plaintiff and/or the letter dated 10-01-2023 during pendency of the instant suit.

2. Notice of the application was extended to other side whereupon defendant filed counter affidavit and denied all the allegations leveled against him. He submitted that plaintiff has come to this Court with unclean hands therefore not entitled for relief as prayed. He further submitted that attempting to silence the defendant's attempts to raise bona fide issues of national importance and such disclosure has been made by the defendant in exercise of his fundamental rights guaranteed under the Constitution of Islamic Republic of Pakistan, 1973. The defendant has made a fair comment in the public interest, which was published in good faith. The defendant's statements were based on truth and made for the public good, which constitutes a complete defence under section 5(c) of the 2000 Ordinance. It is clarified that the impugned letter addresses several other issues, the defendant has raised a number of serious concerns pertaining to the accumulation of approximately Rs.355 Billion worth of receivables from the Govt. of Pakistan, the plaintiff's illogical policy to define a consumer as a premises without any legal personality, NEPRA's concern over the plaintiff's write off claims and also issues of inadequate disclosure. These issues have been highlighted in the public interest, to improve good governance and accountability of the plaintiff. It is further submitted that all hook connections are illegal and NEPRA has confirmed this vide its letter dated 27-02-2014. Despite the fact that the plaintiff has challenged this letter, the plaintiff has failed to disclose this material information in its financial



statement and nor has it disclosed its policy that it records revenue for hook connections. Therefore in these circumstances the plaintiff is not entitled for any relief as he claimed in the instant application hence the application under order 39 Rule 1 & 2 CPC R/w section 151 CPC is liable to be dismissed.

3. The perusal of record reveals that plaintiff has filed suit Declaration, Permanent, Mandatory Injunction and Damages against the defendant. The plaintiff has sought relief on the ground that the defendant, an ex-Director of the plaintiff company, acted in violation of his declaration dated **30.06.2021**, whereby he undertook to maintain confidentiality of sensitive information for a period of five years after cessation of his employment. The plaintiff alleges that the defendant, in breach of the said obligation, issued a letter dated **10.01.2023** to the Securities Exchange Commission of Pakistan (SECP) and further circulated the same to Mutual Funds Association of Pakistan (MUFAP) for onward dissemination to Asset Management Companies, thereby allegedly causing market manipulation and affecting investors' confidence.

4. Learned counsel for the plaintiff's plea is that the defendant was legally bound under the Code of Conduct and his signed declaration to refrain from sharing any sensitive information of the company, and that the impugned letter contained such sensitive material, disclosing internal matters of the company which could not be disseminated after his tenure, but the defendant with ulterior motives circulated libelous content by sending letter vide dated 10.01.2023 to chief executive of Pakistan stock exchange and also sent same letter via email to Mutual Funds Association of Pakistan and further circulation amongst its members levelling two main allegations firstly recognition of claims for write off of bad debts as revenue of the company and secondly recording of revenue of hook connections. Learned counsel for plaintiff pointed out that defendant rather availing legal forum in respect of contentions mentioned in the letter dated 10.01.2023 violated the undertaking, hence prayed for grant of interim injunction by relying upon the case laws PLD 2015 SC 134 and PLD 2008 Karachi 458.

5. Conversely, Learned counsel for the defendant has strongly refuted the allegation of breach of confidentiality. It is argued that the information raised in the impugned letter did not constitute "sensitive information" within the meaning of the declaration, nor was any confidential data or proprietary material disclosed. The defendant submits that all issues highlighted in the letter pertained to matters already available in the public domain in the form of the plaintiff's own financial statements, published material, or statutory disclosures on official websites. The defendant thus



contends that the declaration does not restrain him from articulating concerns that are publicly known, nor does it operate to suppress valid criticism of the plaintiff's governance practices.

6. The Learned counsel for defendant has further asserted that the letter dated 10.01.2023 was issued in **good faith** and **in compliance with his fiduciary and statutory obligations** under the *Companies Act, 2017*, particularly obligations relating to ensuring fair disclosures, protection of shareholders, and the promotion of transparency. It is also argued that the communication falls within the ambit of **qualified privilege**, as it was addressed to the regulatory authority (SECP) and relevant industry stakeholders, in circumstances where raising such issues was necessary for safeguarding investor interests and upholding corporate governance standards.

7. The counsel further contended that the matters raised in the letter include serious issues such as large government receivables, misclassification of consumer categories, substantial write-off claims, inadequate disclosures, and potential non-compliance with accounting standards. These matters undeniably relate to financial transparency, corporate accountability, and investor protection—issues that are of **public importance**. He further submits that during plaintiff's tenure as Director plaintiff had attempted to raise similar concerns internally before the plaintiff's Board, but the same were not addressed, necessitating escalation to the regulator in the larger public interest. Lastly the learned counsel for defendant prayed for dismissal of application under order XXXIX Rule 1 & 2 CPC by relying upon the case law PLD 2022 Lahore 773, PLD 1997 Karachi 41 & PLD 2002 SC 514.

8. After hearing the parties and perusing the record, including the contents of the impugned letter, this Court finds that the plaintiff has failed to establish that the material disclosed by the defendant amounts to "sensitive information" within the scope of the confidentiality declaration. The defendant has demonstrated, through reference to publicly available documents and published accounts, that the issues highlighted were already in the public sphere. The mere fact that such disclosures are unfavourable or inconvenient to the plaintiff does not render them "confidential" so as to attract contractual restraint. Moreover, the law recognises that fiduciary duties of directors are owed not only to the company but to its shareholders and, in certain contexts, to the broader investing public. Where allegations pertain to potential financial misstatements, governance lapses, or breaches of statutory duties, the communication of such matters to the relevant regulator falls squarely within the legitimate exercise of those duties. Superior Courts have consistently held that bona fide communication made



to authorities on matters of public concern is protected by qualified privilege communication of public interest, provided malice is not established. In the present case, the plaintiff has produced no material demonstrating malice, personal vendetta, or any collateral motive on the part of the defendant.

09. The contents of the impugned letter reflect concerns regarding transparency, adherence to accounting standards, and the financial health of an entity whose operations directly affect the public and the energy sector. Such issues undeniably carry public interest implications, particularly for investors, regulators, and stakeholders in the power sector. At this stage raising these matters before the SECP cannot be treated as unlawful as no any malice has come on record. Circulation to MUFAP for the limited purpose of informing asset managers also remains within the scope of responsible disclosure, particularly where such entities rely on accurate financial reporting for investment decisions. Therefore, upon careful consideration, at this stage this Court holds that the letter dated 10.01.2023 was issued in the public interest, in good faith, and falls within the scope of privileged communication aimed at safeguarding transparency and investor confidence till any. No breach of confidentiality or violation of the Code of Conduct is made out. The allegations of malice or ulterior motives remain unsubstantiated at this stage.

10. Now turning to the requirements for grant of temporary injunction under Order XXXIX Rules 1 & 2 CPC, it is well-settled that the plaintiff must satisfy the following three essential ingredients:

(I) Prima facie case:



As discussed above, the plaintiff has failed to establish a prima facie case of breach of confidentiality. The material allegedly disclosed appears to be already available in the public domain, and disclosure was made to statutory and sectoral bodies in good faith. No apparent violation of the confidentiality undertaking has been shown. Thus, the first ingredient is not satisfied.

(II) Irreparable loss:

The plaintiff has also not demonstrated any irreparable or non-compensable loss likely to be caused by refusal of injunction. Any alleged reputational harm, if proved, is compensable through damages. No imminent threat of unlawful disclosure of genuinely confidential information has been shown.

(III) Balance of convenience:

The balance of convenience tilts in favour of the defendant. Granting an injunction would unjustifiably restrain the defendant from exercising statutory, constitutional, or fiduciary obligations, particularly where the material concerns issues of public interest. On the other hand, refusal of injunction does not pose any non-compensable harm to the plaintiff.

11. Since the plaintiff has failed to satisfy all three mandatory conditions, therefore no case for grant of temporary injunction is made out. In view of the above discussion, ad-interim injunction granted vide order dated 24.01.2023 is recalled and the application under Order XXXIX Rules 1 & 2 CPC read with Section 151 CPC is hereby dismissed. The above observations are tentative in nature and would not affect to the merits of the case which will be decided on its own merits.

Announced in the open Court,
On this 02nd day of December, 2025.




(ALTAF HUSSAIN KHOSO)
IXth Senior Civil Judge, Karachi-South