

Order

15.04.2021

Present: Learned counsel for the petitioner/defendant.
Nemo from respondent/plaintiff.

There is an application u/o VII Rule 11 CPC, which is pending for the decision.

2. Numerous opportunities were given to the respondent/plaintiff to make arguments but of no use. So much so, my learned transferee court has passed the order dated 16.02.2021 that in case of no arguments on behalf of respondent/plaintiff the court shall decide the petition keeping in view the contents of application. But respondent/plaintiff did not pay any heed to the court's order and keep on moving without arguments. Lastly, on 13.03.2021 instead of making arguments fresh power of attorney has been filed the attorney was without any stamp of the company or department. However, keeping in view the interest of justice, on appearance of associate counsel Rana Ijaz Ahmad Advocate last opportunity was given for arguments and in this regard signature of learned associate counsel has been obtained on the margin of order sheet. Again today, till rising of the court time nobody has appeared on behalf of respondent/plaintiff for arguments. So, in these

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circumstances, I am constrained to decide the petition u/o VII Rule 11 CPC in the light of averments available in file.

3. Petitioner has moved the petition u/o VII Rule 11 CPC on the grounds that the suit of the plaintiff is not maintainable and barred by special law i.e Pakistan Telecommunication (Re-Organization) Act 1996 and Telecom Consumers Protection Regulations, 2009. It is contended by the petitioner through his petition that since, special law has been enacted by the legislature for redressal of the grievances against Telecommunications, therefore, suit is hit by the special law and cannot be filed before Civil Court. Lastly, petitioner/defendant has prayed for rejection of the plaint.

4. On the other hand, this petition has vehemently opposed by filing written reply of the petition by respondent/plaintiff.

5. Heard. Perused.

6. Plaintiff has filed suit against U-fone Network of declaration, rendition of accounts with mandatory and permanent injunction. In content No.3, it is contended by the respondent/plaintiff that defendant is over charging illegally and unlawfully despite the request made by the respondent/plaintiff but of no use. Before this court proceed further, it is important to reproduce the Part-IV of Pakistan Consumers Protection Regulation, 2009, which deal **Redressal of consumers grievances:-**

Section 11. **Nature of complaints:-**Notwithstanding anything contained in any procedures provided in any law for the time being in force, all Operators shall entertain complaints of Consumers in relation to any Service, including but not limited to the following issues:-

- (i) Misuse of Service
- (ii) Quality of Service
- (iii) Illegal Practices
- (iv) Poor Services
- (v) Provision of Service
- (vi) Misleading Statements
- (vii) Non-Provision of Service
- (viii) Mobile Number Portability related complaints

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7. From the plain reading of above referred Section 11 of Telecommunication Consumer protection Regulations 2009 alongwith Regulation 15 relates to the procedure by which complaints needed to be addressed with by authority and also contents of the action/powers, which can be passed/imposed by the Telecommunication Company as mentioned in Section 15(9). It is also settled principle of law that **“Things required by law to be done in the prescribed manner should be done in that manner alone and any other course adopted in the performance of the said act will be deemed to be unlawful to which no sanctity will be attached”**.

8. Last but not least, this court has sought guidance from the esteemed Judgment titled “Pakistan Mobile Telecommunication Ltd Vs District Gujranwala (PLD 2015 Lahore 204)”. It is quite evident from the above discussion that the suit of the plaintiff is barred by special enactment and the procedure has also been laid down in the supra special enactment for redressal of the complaints regarding the telecommunication. So, petitioner/defendant has rightly filed the Petition u/o VII Rule 11 CPC and plaint of the plaintiff is being rejected as not maintainable before this court u/o VII Rule 11 CPC. Decree sheet be prepared. File be consigned to record room after its due completion.

Announced

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