

News story

November 21, 2023

RIAA Barker Gillette wins case against stay order on abuse of process grounds

The judgment given by the Sindh High Court develops the law on stay orders obtained by abuse of process.



Grant Thornton Anjum Rahman ("GT") is a leading professional services firm in Pakistan providing assurance, tax and advisory services. GT is organised as a partnership firm under the Partnership Act 1932. We have been advising GT on a dispute with one of its former partners (the "Disputing Partner").

In early 2023, the Disputing Partner was found guilty of misconduct by GT and expelled. The Disputing Partner sought to challenge the expulsion by means of a suit at the Sindh High Court. In these proceedings, he sought an interim injunction, commonly known as a 'stay order,' suspending the expulsion. The High Court did not grant the stay order at the first hearing after our intervention.

Several months later, the Disputing Partner moved another such application before a different Judge and obtained an order suspending his expulsion at an ex parte hearing. The earlier application for interim injunction was not disclosed to this Judge at this hearing.

We moved an intra-court appeal challenging the grant of the stay order in June 2023, during the annual summer vacations of the High Court. On our urging, the Division Bench was minded to hear and decide the appeal as an urgent case during vacations.

As per judicial precedent, appellate Courts refuse to interfere with the grant of ad-interim relief in first-instance proceedings. The Courts take the position that only orders deciding applications for interim injunction can be challenged in appeal.

Shahbakht Pirzada, Partner in our Dispute Resolution practice, represented GT in the appeal, which was argued over the course of two months. The appeal confined itself to grounds of abuse of process, eschewing any argument on the merits of the expulsion. The Division Bench pronounced judgment in favour of GT and vacated the stay order granted to the Disputing Partner. The reasoned judgment of the High Court is a welcome addition to the substantial body of judicial precedent on abuse of process, requirements of fair disclosure and standards of propriety that a litigant applying for injunctive relief must observe, notwithstanding the merits of the underlying dispute.

Pakistan partner [Shahbakht Pirzada](#), assisted by associate [Sophia Rahman](#), argued the matter.

If you require advice on partnership or other commercial disputes, contact [Shahbakht Pirzada](#) today.

This article is not legal advice; it provides information of general interest about current legal issues.

RIAA Barker Gillette is Pakistan's premier law firm, with an on-the-ground presence in four major cities in Pakistan: Karachi, Islamabad, Lahore, and Peshawar, and affiliated offices in Dubai (DIFC) and London.

The firm practices in all areas of corporate, commercial and dispute resolution law. Leading international legal directories consistently recognize the firm as a top-tier law firm in Pakistan.

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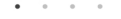
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