



TO VERIFY THIS DOCUMENT

1. Option 1. Scan it through any bar code reader or cellphone QR reader Software
2. Option 2. Directly verify it from website <http://shc.gov.pk/cfms-do.php> Document Code: 59CC209BF2B0C153FF3E87CE0FC4261FA



IN THE COURT OF IVTH SENIOR CIVIL JUDGE KARACHI SOUTH

New CIVIL SUIT NO.7363 OF 2025

Old HC Suit No.1786 of 2023

M/s. DKT Pakistan (Pvt) Ltd.

A private limited company incorporated under the laws of Pakistan,

Through its duly authorised

Chief Executive Officer and Country Director, namely,

Mr. Georgious Papachristou

Son of Antonios, Christian, Adult,

Having Office at 34-C, 1st Khalid Commercial Street,

Khalid Commercial Area, Phase 7 Ext., DHA,

Karachi.....Plain
tiff.

Versus

M/s. AU Real Estate,



COPY::HTTPS://DIGITAL.SHC.GOV.PK/

Through its Owner / Proprietor,

Mr. Anwaruddin

Son of Unknown, Muslim, Adult,

Having Office No.107-C, Zulfiqar Commercial,

Street No.10, Khayaban-e-Shaheen,

Phase VIII, DHA,

Karachi.....Def
endant.

Mr. Abdullah Munshi, Advocate for Plaintiff.

Mr. Farjad Ali Khan, Muhammad Noman & Sarfaraz Soomro Advocates for Defendant.

-

-

ORDER

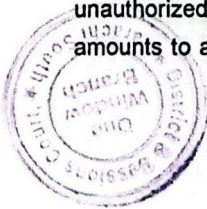
22-04-2026

DIGITAL

-

This order will dispose of application under section 34 of the Arbitration Act, 1940, filed by counsel for defendant praying for stay the instant proceedings of above suit by directing the parties to resolve the dispute through arbitration in accordance with the Arbitration contract in the larger interest of justice.

2. In reply to the aforesaid application, counter affidavit on behalf of the plaintiff has been filed stating therein that on 13.07.2023, the Defendant along with several unknown persons accompanying them arrived at the building location of the Plaintiff's Karachi office and started threatening the staff members and demanded arbitrary and random additional payment of millions of rupees, which amount was never included nor mentioned in the terms and conditions of the Agreement. Furthermore, the Defendant along with several companions, engaged in the unauthorized obstruction of the building entrance. Such conduct on the part of the Defendant amounts to a breach of privacy, constitutes illegal and unlawful confinement, false imprisonment,



and gives rise to actionable tort claims against the Defendant. Since the criminal activities that were done by the Defendant cannot be adjudged by the arbitrator nor the damages arising out of the same, the instant matter has rightly been filed before the learned Court. Hence, the present Application is liable to be dismissed as not maintainable. The Defendant sent an e-mail dated 26.08.2023 to the Plaintiff wherein the Defendant made allegations of fraud against the Plaintiff and threatened to file a suit for recovery, damages as well against the Plaintiff, as well as approach the donors of the Plaintiff and thus, the instant matter cannot be dealt by the Arbitrator. Hence, the present Application is liable to be dismissed as not maintainable. That on 10.10.2023, the Plaintiff Company's Finance Director, namely Mr. Saleem Panjwani, sent e-mail dated 10.10.2023 to the CEO of the Plaintiff informing that in the presence of several witnesses, the Sole Proprietor of the Defendant entered the premises of the Plaintiff without any prescheduled appointment and/or did not bring into anyone's knowledge of his arrival at the office of the Plaintiff, and started shouting, was being harsh, disrespectful and threatened the employees of the Plaintiff to destroy and ruin their lives, including CEO / Country Director of the Plaintiff, as well as that the Defendant would put everyone behind the bars. Moreover, the Defendant made further allegations of fraud against the Plaintiff and its employees. Such deplorable and inexcusable conduct of the Defendant reeks of mala-fide intentions and ulterior motives, and the Defendant is clearly acting in violation of law. It is pertinent to mention here that there were several eye witnesses of such unlawful attempt of trespassing, issuing serious threats, harassment, extortion, malice, etc. with deliberate, mala fide intentions and ulterior motives as well as the incident has also been recorded through CCTV footage dated 10.10.2023, which is currently in the possession of administration of the Plaintiff. Therefore, due to such allegations and acts of omission and commission by the Defendant, the instant matter cannot be dealt via arbitration. Hence, the learned Court is the proper forum and has jurisdiction to entertain the present Suit as well the present Application is liable to be dismissed as not maintainable. That mere existence of the Arbitration clause as provided under the head of "Dispute Resolution" of the Agreement does not bar the jurisdiction of this learned Court to proceed with this matter, particularly since the Defendant in the e-mail dated 26.08.2023 sent to the Plaintiff alleged fraud against the Plaintiff (which allegations are vehemently denied by the Plaintiff). It is settled law that once a party alleges fraud, despite the existence of an arbitration clause in the contract agreement, such allegation of fraud is too serious a matter for an Arbitrator to arbitrate and decide in respect thereof. That additionally, it is respectfully submitted that in light of settled law and precedents on torts, this learned Court has jurisdiction to entertain the present Suit and adjudicate on the same as the Defendant threatened to approach the donors of the Plaintiff, both national as well as international, which deliberate acts of omission and commission of the Defendant are made with mala-fide intentions and ulterior motives in an attempt to destroy the reputation and business of the Plaintiff, with a view to extort and harass the Plaintiff in violation of law. That in the circumstances, the controversies, differences and disputes between the parties mentioned above and elsewhere cannot be resolved through arbitration. Hence, the disputes are



liable to be adjudicated upon by this learned Court in accordance with law and the present Application is liable to be dismissed. That the invocation of arbitrator's jurisdiction may be contingent upon withdrawing the allegations of fraud against the Plaintiff as well as the Defendant tendering unconditional written apology to the Plaintiff for the wrongful and illegal confinement, raising false allegation of fraud, threatening the Plaintiff to approach the donors of the Plaintiff both national and International and for all illegal acts of omission and commission done by the Defendant against the Plaintiff.

3. Learned counsel for defendant has argued that the plaintiff has filed this suit for declaration that construction contract agreement date 19-10-2022 was signed between the plaintiff and defendant with further declaration that the defendant has breached and violated the terms and conditions of the agreement and has illegally / unlawfully / dishonestly demanded additional arbitrary obligations to complete the work with the stipulated time. Admittedly arbitration clause "dispute resolution" duly depicts in the construction contract agreement dated 19.10.2022 as such it is an arbitration agreement. The provisions of section 34 of the Arbitration Act, 1940 are applicable in present circumstances and this Hon'ble Court has ample powers to stay proceedings of the above numbered suit. The plaintiff has referred its/their email dated 11.08.2023 regarding its contention to Invoke the arbitration clause as such was fully aware of the arbitration clause but has filed the above numbered suit in order to delay my payments. Through the construction contract agreement, it has duly been agreed that in case of any dispute and difference between the parties herein concerning with this agreement, such dispute and difference shall be amicably settled by the parties in spirit of goodwill and mutual accommodation and if this is not possible in fifteen (15) days then the matter be referred to a sole arbitrator appointed with mutual consent of both parties under the provisions of the Arbitration Act, 1940. It is explicitly evident from perusal of the plaint that the falsely leveled allegations pertain to agreement dated 19.10.2022 and the relief(s) has/have been sought regarding the terms & conditions of the agreement. The plaintiff has also prayed for penalty amount to the tune of Rs.28,200,000/- from me on account of my alleged failure to complete the work within time as provided under the head of "penalty" in the agreement dated 19.10.2022.

4. Learned counsel for the plaintiff while reiterating the contents of his counter affidavit as argued that it is vehemently denied that the Defendant is entitled get the declaration for the stay of the proceedings of the present Suit by directing the parties to resolve the instant matter through arbitration in accordance with the construction contract in the larger interest of justice, as alleged. It is respectfully submitted that it is settled law that once a party alleges fraud, despite the existence of an arbitration clause in the contract /agreement, such allegation of fraud is too serious a matter for an Arbitrator to arbitrate and decide in respect thereof. That moreover, mere existence of the Arbitration clause as provided under the head of "Dispute Resolution" of the Agreement does not bar the jurisdiction of this learned Court to proceed with this matter, particularly since the



Defendant in the e-mail dated 26.08.2023 sent to the Plaintiff alleged fraud against the Plaintiff (which allegations are vehemently denied by the Plaintiff). It is submitted that in the e-mail dated 26.08.2023, the Defendant made allegations of committing fraud by the Plaintiff and threatened to file a suit for recovery, damages as well against the Plaintiff, as well as approach the donors of the Plaintiff. That in addition to the foregoing, it is respectfully submitted that the several criminal activities have been done by the Defendant therefore, the instant matter cannot be adjudged by the arbitrator. The jurisdiction of the arbitrator can only be invoked if the Defendant retracts his false allegations of fraud committed by the Plaintiff and tender unconditional apology to the Plaintiff for all his wrongdoings. It is vehemently denied that the provision of Section 34 of the Arbitration Act, 1940 is applicable in the present circumstances, as alleged. The Defendant is put to strict proof of the same. It is respectfully submitted that since the Defendant disrupted the law-and-order situation, illegally imprisoned the Plaintiff and its personnel, threatened the Plaintiff as well as made false allegations of fraud against the Plaintiff, such matter is out of the jurisdiction of the arbitrator hence, Section 34 of the Arbitration Act, 1940 is not applicable. It is reiterated that the instant matter can only be dealt by the arbitrator in the circumstances if the Plaintiff withdraws the allegations of fraud committed by the Plaintiff and tender unconditional written apology to the Plaintiff for all his wrongdoings. It is vehemently denied that the present case has been filed by the Plaintiff to the disregard of the arbitration clause under the Construction Agreement, as alleged. It is strongly denied that the present Suit is filed by the Plaintiff with a view to delay any payment whatsoever, as alleged. The Defendant is put to strict proof of the same Any adverse inference to the contrary is denied. It is respectfully submitted that the Plaintiff sent the letter / email dated 11.08.2023 in response to the Defendant's email dated 10.08.2023, which email of the Defendant provided for and contained undue demands but did not allege any fraud. Similarly, the response of the Plaintiff vide letter/email dated 11.08.2023 to the Defendant's email dated 10.08.2023, was an attempt to provide clarity to the Defendant in respect of the circumstances and to make claims as the Plaintiff saw just and proper, however, the same did not contain any allegation of fraud.

5. Heard learned counsel for both the parties and perused the record.

6. From the contents of the plaint it is clear that the plaintiff has filed instant suit for declaration, permanent injunction and damages against defendant in respect of alleged breach of contract dated 19-10-2022 admittedly executed between plaintiff and defendant in respect of construction to be carried out at plot No.34-C, Khalid Commercial Street-I, Phase-VII Ext. DHA Karachi. The construction agreement in question is available at page No.113. Perusal of the said agreement shows that it contains a dispute resolution clause which for the sake of brevity is reproduced as under:-

Dispute resolution



In case of any dispute and difference between the parties herein concerning this agreement if arises, such dispute and differences shall be amicably settle by the parties in the spirit of goodwill and mutual accommodation and if this is not possible in 15 days then the matter be referred to the sole arbitrator appointed with the mutual consent of both parties under the provision of Arbitration act 1940. The venue of Arbitration shall be Karachi. Each party hereby agrees that the decision of the Arbitration will be communicated in writing to both the parties and its verdict shall be final and binding on the parties. Each Party shall bear its own cost of Arbitration. Arbitration shall precede any court action.

7. From the above dispute resolution clause it is clear that the parties have agreed to refer any dispute and differences between them to the sole arbitrator mutually appointed by them under Arbitration Act 1940. It was also agreed between the parties that Arbitration shall precede any court action. Plaintiff in the case in hand has failed to adopt the procedure for dispute resolution agreed by him in the construction contract agreement dated 19-10-2022.

8. I have duly considered submission made by learned counsel for both the parties. It is matter of record that the defendant has not yet taken any step in the proceedings and has promptly filed application u/s 34 of Arbitration Act 1940 and shows his readiness to do all things necessary to the proper conduct of the arbitration.

9. On the other hand the learned counsel for the plaintiff has submitted the defendant has made allegation of fraud against the plaintiff. He referred an email dated 26.08.2023 of the defendant and submitted that since there is allegation of fraud this case must not be referred for Arbitration. He further submitted that mere existence of an arbitration clause don't not bar jurisdiction of this Court. He relied upon case of Farid Virani reported as PLD 2013 Sindh 386 and submitted that this Court under no obligation to refer the matter to Arbitrator and matter of staying the proceedings is not obligatory on the Court. He further submitted that the dispute between the parties cannot be resolved through Arbitration. Therefore, the application under section 34 of the Arbitration Act may kindly be dismissed.

10. With regard to the objection of the learned counsel for the plaintiff that where there is allegation of fraud matter should not the referred for arbitration, it is observed that in the case of Government of Sindh Vs Tausif Ali Khan reported as 2003 CLC 180 it has been held by the Honorable Sindh High Court that "Merely by an allegation of fraud by the appellant at this stage, the respondent cannot be deprived to have the dispute resolved through arbitration." In the case in hand mainly the dispute between the parties is in respect of construction agreement.

For the sake of brevity section 34 of the 1940 Act is reproduced herein below:—



"34. Power to stay legal proceedings where there is an arbitration agreement.

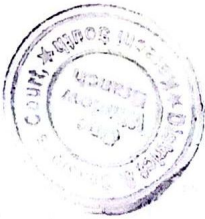
Where any party to an arbitration agreement or any person claiming under him commences any legal proceedings against any other party to the agreement or any person claiming under him in respect of any matter agreed to be referred, any party to such legal proceedings may, at any time before filing a written statement or taking any other steps in proceedings, apply to the judicial authority before which the proceedings are pending to stay the proceedings; and if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the arbitration agreement and that the applicant was, at the time when the proceedings were commenced, and still remains, ready and willing to do all things necessary to the proper conduct of the arbitration such authority, may make an order staying the proceedings."

11. Section 34 of the 1940 Act has been enacted to make arbitration agreements effective and prevent a party from going to the Court contrary to his own agreement. Where parties have agreed to refer disputes to arbitration, the Court should as far as possible, give an opportunity for resolution of disputes through arbitration rather than by judicial adjudication. The power conferred upon the Court to grant stay under Section 34 of the 1940 Act is entirely a matter of discretion of the Court. But the Courts should see that the parties are held to their bargain and promote the sanctity of contracts. Stay of proceedings in a suit is a more expedient and proper course to follow where there is an arbitration clause in a contract.

12. I don't see any sufficient reason why the matter in hand should not be referred to Arbitrator in accordance with the Arbitration agreement contained in the construction contract dated 19-10-2022. Therefore, application under section 34 of Arbitration Act 1940 is hereby allowed with no order as to cost and proceedings in present suit are hereby stayed.

Announced in open Court

Given under my hand and the seal of the Court on this 22nd day of April, 2026.



(KHURRAM AMIN KHAN)

IVth Senior Civil Judge Karachi South

COPY::[HTTPS://DIGITAL.SHC.GOV.PK/](https://digital.shc.gov.pk/)

Document Generated From:<https://digital.shc.gov.pk/>

Digitally Signed: Suit (Received from HC) 7363/2025, M/S DKT PAKISTAN (PVT) LTD V/S M/S AU REAL ESTATE

Order Date: 22-Apr-2026

Generate Date: 22-Apr-2026 02:53 PM By Hanifa bano

Total Pages: 7 Cost Per Page: Rs.0 Total Cost Rs.0

***** Page 7 of 7 *****