

IN THE HONOURABLE HIGH COURT OF SINDH AT KARACHI

Suit No.773 of 2017

11

K-Electric Limited.....Plaintiff

5461/1/21

Versus CM9 5421/17

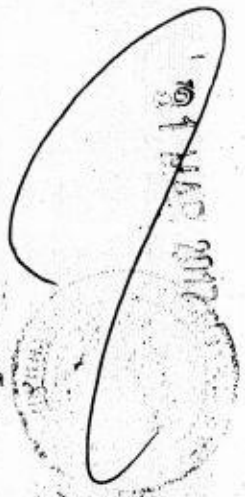
Federation of Pakistan & Another.....Defendants

Karamat Ali & Others.....Applicant Interveners

Application under Order 1, Rule 10(2), Read with, Section 151, C.P.C., 1908,

For the sufficiency of the detailed reasons as stated in the accompanying Affidavit and in the interest of justice, it is most respectfully and most humbly prayed on behalf of the Applicant Interveners that this Honourable Court may graciously be pleased to implead the Applicant Interveners, named herein below, in this present Suit as Defendants No.3 to No.8 respectively:

1. Karamat Ali,  
Son of (Late) Amanat Ali,  
Muslim, Adult,  
Resident/office at 143-A, Sector X-5,  
Gulshan-e-Maymar,  
Karachi-75340
2. Nazim Fida Hussain Haji,  
Son of Fida Hussain Haji,  
Muslim, Adult,  
Resident of House No. A-21/2-A,  
KDA Scheme 1A Extension, Stadium Road,  
Karachi
3. Pakistan Institute of Labour  
Education & Research,  
Registered as an Association under Section 42,  
Companies Ordinance, 1984,  
Through its authorized person,  
Having its registered office at PILER Centre,  
ST-001, Sector X, Sub-Sector V,  
Gulshan-e-Maymar,  
Karachi-75340
4. National Organization for Working  
Communities (NOW Communities),  
An Agency registered under the  
Voluntary Social Welfare Agencies



(Registration & Control) Ordinance, 1961,  
Through its authorized person,  
Having its registered office at 1-D,  
First Floor, Westland Trade Centre, K.U.C.H.S.,  
Block 7/8, Near Baloch Colony,  
Shaheed-e-Millat Road,  
Karachi

13

5. Urban Resource Centre,  
A Society registered under the  
Societies Registration Act, 1860,  
Through its authorized person  
Having its registered office at  
A-2/2, 2nd Floor, Westland Trade Centre,  
Commercial Area, Shaheed-e-Millat,  
Karachi
  
6. Workers Education and Research Organization  
(WERO),  
An Agency registered under the  
Voluntary Social Welfare Agencies  
(Registration & Control) Ordinance, 1961,  
Through its authorized person  
Having its registered office at  
D-1, First Floor, West Land, Trade Centre,  
K.U.C.H.S., Block 7/8, Near Baloch Colony,  
Shaheed-e-Millat Road,  
Karachi

Karachi:

Dated: 01-04, 2017



Advocate for the Applicant Interveners

IN THE HONOURABLE HIGH COURT OF SINDH AT KARACHI

Suit No.773 of 2017

5546/9455  
He/1/9455

K-Electric Limited.....Plaintiff

Versus

Federation of Pakistan & Another.....Defendants

Karamat Ali & Others.....Applicant Interveners

Affidavit in support of the Application under Order 1, Rule 10(2), Read With, Section 151, C.P.C., 1908

I, Karamat Ali, son of (Late) Amanat Ali, Muslim, Adult, resident/office at 143-A, Sector X-5, Gulshan-e-Maymar, Karachi-75340, holding CNIC No. 42201-0678228-7, do hereby state on oath as under:

1. That I am the Applicant Intervener No.1 in the present Suit and I am well conversant with the facts of this case.
2. That the accompanying Application has been filed and drafted under my instructions and for the sake of brevity, the entire contents of the accompanying Application may be read as a part of this Affidavit.
3. That the Applicant Intervener No.1 is a known activist who is involved in various struggles for the enforcement of the legal and human rights of the people of Pakistan. In his individual capacity as well as being the Executive Director of Pakistan Institute of Labour Education and Research, the Applicant Intervener No.1 is engaged in numerous social and welfare activities, which include, but are not limited to, the


*[Handwritten Signature]*

ASSISTANT REGISTRAR-V  
AFFIDAVIT & IDENTITY BRANCH  
HIGH COURT OF SINDH

17

enforcement of the rights of labourers and workers. Amongst the major causes for which the Applicant, Intervener No.1 had immensely fought, the most significant includes, but is not limited to, fighting against the Plaintiff ['K-Electric'] and Defendants ['Federation' and 'NEPRA'] for the victims of the heat wave tragedy in the year 2015, through Constitution Petition No. 3885 of 2015 ['Karamat Ali and Others Versus Federation of Pakistan and Others'] before this Honourable Court that resulted in the Defendant No.2 ['NEPRA'] initiating proceedings against the Plaintiff ['K-Electric'] and adjudicating upon, the same resulting in the Decision dated: 25<sup>th</sup> March, 2016, through which a fine and various directions against Plaintiff were imposed. For implementation of the said Decision, the Applicant Interveners, firstly, filed Intervener Application in Suit No. 1453 of 2015 ['K-Electric Versus Federation of Pakistan and Others'] but upon withdrawal of the said Suit by K-Electric, the Applicant Interveners filed Constitution Petition No. 3891 of 2016 ['Karamat Ali and Others Versus Federation of Pakistan and Others'] which is pending adjudication before this Honourable Court. The Applicant Interveners have also filed Constitution Petition No.D-1754 of 2017 ['Karamat Ali and Others Versus Federation of Pakistan and Others'], which is pending adjudication before this Honourable Court, in their capacity as the customers of Plaintiff/K-Electric, all based in Karachi. Whilst being directly affected by the performance of K-Electric, they have instituted the aforementioned Petition in public interest on behalf of all those whose welfare and economic efficiency is dependent upon the performance of K-Electric i.e. a major public utility provider, generator, transmitter and distributor of electricity.

*A copy of the Memo of CP No. 3885 of 2015 and Order sheet in respect thereof, Plaintiff, Intervener Application and Withdrawal Order in Suit No.1453 of 2015 and Memo of CP No. 3891 of 2016, is annexed and marked as Annex 'A' to 'A-5'.*

  
**ASSISTANT REGISTRAR-V**  
**DEPONENT & IDENTITY BRANCH**  
**HIGH COURT OF SINDH**

19

4. That the purpose behind filing the present Application is to bring relevant facts on record which have been concealed by the Plaintiff ['K-Electric'] in relation to Constitution Petition No.D-1754 of 2017 ['Karamat Ali and Others Versus Federation of Pakistan and Others'] pending adjudication before this Honourable Court. By becoming a party to the present Suit, the Applicant Interveners will, in the interest of justice, assist this Honourable Court in the following manner:

- a. By bringing relevant facts on record in relation to the Constitution Petition No.D-1754 of 2017 ['Karamat Ali and Others Versus Federation of Pakistan and Others'] which demands inquiry into the acts of and issues revolving Plaintiff/K-Electric, including but not limited to, overbilling to its customers by K-Electric to the amount of Rs.62 Billion in the past few years resulting in windfall profits for K-Electric.
- b. By bringing relevant facts on record regarding Letter dated: 26<sup>th</sup> January, 2017, of Defendant No.1 ['Ministry of Water and Power'] addressed to Defendant No.2 ['NEPRA'] stating that it has been noted by it that K-Electric consumers have been made to pay at least Rs. 62 Billion in the past few years which violates the general policy and guidelines relating to tariff determination and has resulted in "windfall profits" for K-Electric. As a result, NEPRA has been reprimanded by the Defendant No.1 because as alleged by the said Ministry, unfair and excessive tariff settings by NEPRA had resulted in K-Electric being allowed to recover a very high price from consumers whereas the actual generation costs are much lower. This is the reason why the Ministry of Water and Power has asked NEPRA to make adjustment in the new tariff in order to pay the excessive amount back to the consumers. In the aforementioned Petition, the Applicant Interveners had alleged collusion of NEPRA with K-Electric which further surfaced when

**ASSISTANT REGISTRAR-V**  
**AFFIDAVIT & IDENTITY BRANCH**  
**HIGH COURT OF SINDH**

21

on 30<sup>th</sup> January, 2017, pending an inquiry sought by the Government, NEPRA overturned its decision taken more than two years ago that held that K-Electric's top hierarchy is involved in overbilling its consumers and in issuing unjustified and inflated bills to maximise revenue. Furthermore, NEPRA's Letter dated: 4<sup>th</sup> February, 2017, denies all the allegations of overbilling the consumers whilst defending its Multi-year tariff regime, which must also be brought on record.

- c. By bringing relevant facts on record which have been stated in the aforementioned Petition regarding complaints pending against Plaintiff/K-Electric on the issue of overbilling by illegally charging meter rent, bank collection charges and others.
- d. By bringing relevant facts on record which has been stated in the aforementioned Petition regarding non-implementation of Time of Use (TOU) metering/billing facility.

*A copy of the Memo of CP No.D-1754 of 2017 and Orders dated: 21-03-2017 and 28-03-2017, Letter of Ministry of Water and Power, NEPRA's Letter dated: 4<sup>th</sup> February, 2017, News Clippings is annexed and marked as Annex 'B' to 'B-6'.*

- 789
5. That the necessity to bring the aforementioned facts on record is that the Plaintiff through the present Suit has challenged 'the Multi-Year Tariff Determination dated: 20<sup>th</sup> March, 2017, for the period commencing from 01<sup>st</sup> July, 2016, which has inter alia, specified the tariff applicable for the consumers of K-Electric for seven years i.e. until 30<sup>th</sup> June, 2023. As is evident from Para 58 (Page 171) and Para 9 of the Summary of Direction (Page 186) and the Schedule at Annex V (Page 201) of the aforementioned Multi-Year Tariff Determination [Annex 'D' of the Plaintiff], the aforementioned aspects of Overbilling and Time of Use had been taken into consideration before giving the said Determination on tariff. Therefore, the Applicant Interveners are necessary and proper party as they would like to bring the aforementioned records which are necessary

23

to resolve all issues and questions raised in the present Suit regarding Multi-year Tariff Determination, and which are also the subject matter of Constitution Petition No.D-1754 of 2017.

6. That the Applicant Interveners would also like to intervene in public interest as the right to electricity is not a commodity or a privilege but the right to electricity is a fundamental right of the people of the Province of Sindh to the extent that their right to be dealt with in accordance with law (Article 4), their right to life (Article 9) and their right to dignity (Article 14), should be ensured and implemented and the failure to provide electricity to the people of Sindh at the tariff which is affordable for the consumers is a violation of such fundamental rights of the people of the Province of Sindh under the Constitution, 1973, for which the Plaintiff ['K-electric'] being primarily responsible should be held accountable.
7. That the malafides of the Plaintiff ['K-Electric'] in filing the present Suit are evident from the fact that the Plaintiff has failed to disclose in the present Suit about the pendency of the Constitution Petition No.D-1754 of 2017 in relation to the aforementioned issues. It is, therefore, obvious that the purpose of filing the present Suit is to sabotage the proceedings in CP No.D-1754 of 2017. Therefore, to avoid any multiplicity of proceedings, it is necessary that the Applicant Interveners are impleaded as a party as they would bring facts in relation to CP No.D-1754 of 2017 in which substantially the same controversy is involved as that raised in the present Suit.
8. That in view of the above, it is submitted that the presence of the Applicant Interveners is necessary in order to assist and enable this Honourable Court to effectually and completely adjudicate upon and settle the questions involved in this present Suit. Therefore, it is most respectfully and most humbly submitted that it is in the interest of justice

25  
that this Honourable Court may graciously be pleased to implead the Applicant Intervener No.1, named in the accompanying Application, as Defendant No.3 in this present Suit to assist this Honourable Court.

9. That unless the accompanying Application is granted, the interest of justice and the Applicant Interveners will be seriously prejudiced.

10. That whatever is stated above is true and correct to the best of my own personal knowledge and the law as stated above, I believe to be correct in view of the advice from my counsel.

*Karamat Ali*  
DEPONENT

  
**ASSISTANT REGISTRAR-V**  
AFFIDAVIT & IDENTITY BRANCH  
HIGH COURT OF SINDH



To be attached with Affidavit as last Page

IN THE HIGH COURT OF SINDH, KARACHI

Suit No: 773 of 2017

25-A

K-Electric Limited.

PLAINTIFF

VERSUS

Federation of Pakistan & another.

DEFENDANT

AFFIDAVIT IN SUPPORT OF APPLICATION U/O 1 RULE 10 (2) R/W SECTION 151 CPC.

Mr. Karamat Ali Son of Amanat Ali, resident of H.No.17 Waqar Building Sindh Muslim Society PECHS Karachi. Office at 143-A Sector X-5 Gulshan-e-Maymar Karachi., affirmed on oath before me at Karachi on this 01-APR-2017 in the 'Identity Section' of this court.

Photograph of Deponent



Signature of Deponent

*Karamat Ali*

CNIC 42201-0678228-7

Cell No. 0300-8237528

Email: NIL

*[Signature]*  
**ASSISTANT REGISTRAR-V  
AFFIDAVIT & IDENTITY BRANCH  
HIGH COURT OF SINDH**

COMMISSIONER FOR TAKING AFFIDAVIT

Tag ID: 010417285546

No. of Affidavit : 1/1

Cost received : Rs 50

Printed on: 01-APR-2017 at 12:16 pm

- Original CNIC verified by Bar Code Reader
- Photo taken at I.S.
- Biometric Attendance done at I.S.
- Video recording done at I.S.
- CNIC verified through NADRA
- Finger Prints verified through NADRA



Electronic Finger Print taken at I S