IN THE HIGH COURT OF SINDH CIRCUIT COURT LARKANA

1st Civil Appeal No. D-04 of 2024

Before;

Justice Arbab Ali Hakro;
Justice Muhammad Osman Ali Hadi.

Appellant	:	M/S United Bank Limited, through Mr. Fareed Ahmed Soomro, Advocate.
Respondents	:	Tanveer Ali, through his LRs.
Date of Hearing	:	03.11.2026
Date of Judgment	:	03.11.2026.

JUDGMENT

Muhammad Osman Ali Hadi.- The instant Appeal has been filed against Judgment & Decree dated 27.08.2024 passed by the Banking Court II Larkana (**"the Impugned Judgment"**) in Banking SuitNo.305 of 2021 (**"Banking Suit"**), which was filed by the Appellant (against the Respondents).

2. The Appellant is a banking company, who filed the above-mentioned Banking Suit, which was dismissed (vide the Impugned Judgment). Part of the *ratio* of the Impugned Judgment was that the Appellant did not hold any cause of action to have filed the Banking Suit.

3. It is Appellants' contention that the Respondents are legal heirs of (the late) Tanveer Ali (**"the Deceased"**),who passed away on 31-05-2012. The Appellant claims that the Deceased had been employed by them, but terminated from his service on 21.09.2011. They submit that prior to termination, the Deceased had availed a Staff-House Finance Loan (**"Loan"**) to purchase a property being Plot Survey No. 56/2 measuring (approx.) 1500

square feet in Altaf Shah Shaheed Colony District Shikarpur (**"the Property"**). The Appellant contends that the Property was kept by the Appellant as a mortgage security against the said Loan.[1]

4. The Appellant alleges that the said Loan/Finance-Facility was granted vide Sanction Advice dated 19.09.2007, payable in up to 200 instalments.[2] The Appellant avers that once the Deceased passed away, the Respondents (being his legal heirs) were responsible for repayment of the Loan.

5. The Appellant contends that the said Loan was borrowed by the Deceased, and that the Property was mortgaged against such Loan. However, the Appellant has failed to provide any details about the alleged Property mortgage, nor have they placed anything on record showing that the Property devolved to the Respondents through the estate of the Deceased.

6. The Respondents (at the Trial) denied having any nexus to the said Property, and have further claimed the Property does not even exist in Shikarpur, or at least they remain unaware about it.[3] Furthermore, they have stated neither the Property nor any proceeds (relating in or out of the Loan or the Property) were inherited by them from the estate of the Deceased.

7. The Banking Court has considered all the submissions off the Parties, and have detailed the same in the Impugned

[1] Para No. 5 Memo of Plaint at pg. 35 of the File
[2] As stated in Para 3 of the Memo of Appeal
[3] As can be seen in the Impugned Judgment

Judgment. The Appellant has failed to show the Property was purchased by the Deceased from a Loan received from the Appellant; and have also failed to show how (if at all) the Respondents inherited such Property from the estate of the Deceased? which of course is *sine qua non* when claiming repayment of a loan/finance-facility from legal heirs of an alleged debtor.

8. Moreover, since no loan/finance-facility has shown to be availed by the Respondents through the estate of the Deceased, we fail to see as to how the Respondents would fall within the definition of **'customer'** under section 2(c) of *The Financial Institutions (Recovery of Finances) Ordinance 2001* (**"FIO"**), which is an essential component of eligibility when invoking the *banking jurisdiction* (as per section 9) under the FIO. Since the FIO is a *Special Law*, it must be followed strictly in the manner provided, which only permits suits to be filed between a 'customer' and a financial institution'. *'Customer'* is defined under **section 2(c) of the FIO** as:

> *2(c) "customer" means a person whom finance has been extended by a financial institution and includes a person on whose behalf a guarantee or letter of credit has been issued by a financial institution as well as a surety or an indemnifier;*

9. No finance facility was granted to the Respondents, nor were the Respondents guarantors/indemnifiers/sureties. It remains doubtless that the Respondents are not covered under the definition of *'Customer'* as provided in the FIO, and therefore even

on this front the Banking Suit filed by the Appellant appears without jurisdiction.

10. In the case of *Summit Bank v Qasim & Co.*,[4] it was *inter alia* held by the Supreme Court:

> *"16. It is a well settled principle of law that a pecuniary obligation undertaken by a deceased promisor would be binding on his legal representatives to the extent of the estate of the deceased promisor in their hand. This principle has been statutorily recognized in section 50 of the Civil Procedure Code which lays down the extent to which a decree passed against a judgment-debtor who dies before the decree has been fully satisfied, against his legal representative. Whereas, in the present case, as noted, neither has there been any adjudication of appellant's claim against Tameer-e-Nau and/or Mir Afzal, the principle debtor, or against the deceased, nor has it been judicially determined as to whether the respondents have inherited any property from the deceased, there was/is thus no question of the appellant seeking to right-off the alleged liability and/or seeking any recovery from the respondents without adjudication of the above referred aspects of the matter.*
>
> *17. As regards the appellant's contention that only the Banking Court, established under the Act had jurisdiction in the matter, it may be noted that, as is now clear from the above discussion, neither there was any question pertaining to "finance" as defined by section 9 of the Act, nor the question as to whether the respondents were "customers" in the context of the Act involved in the matter, and no documents were executed by the respondent securing re-payment of the alleged liability. The suit for recovery was filed by the respondents for the amount that was deducted out of their monies lying in their account, illegally and unauthorizedly and thus the Banking Court had no jurisdiction in the matter as the same was constituted to adjudicate upon the matter pertaining to "finance" between bank and its customer, we therefore, did not find any jurisdictional error in the matter." (emphasis supplied)*

11. The above view is not dissimilar in its nature to the circumstances at hand, as opined in the preceding paras of this

[4] 2015 SCMR 1341

Judgment. It is reiterated the Appellant failed to evidence any link showing the Property and/or the Loan having been passed to the Respondents through the estate of the Deceased; and of the Respondents falling under the definition of *'Customer'* per the FIO (both of which are essential for the claim sought by the Appellant).

12. The Appellant has further failed to explain as to why they did not attempt any recovery against the Deceased upon his termination from the Appellant bank in the year 2011 rather than waiting belatedly until the year 2021? Moreover, the Appellant has acknowledged they knew the Deceased had passed away in the year 2012, yet they have not provided any explanation for their extremely delayed attempts in seeking recovery against the legal heirs, i.e. Respondents, which was done nine (9) years post the passing away of the Deceased.

13. The legal grounds put forth in this Appeal are rife with gaping holes, which the Appellant has left unfulfilled. We find the Impugned Judgment has (correctly) addressed all the relevant factual and legal issues, and the Appellant has failed to show anything to the contrary herein. This Appeal being entirely devoid of merit is accordingly dismissed.

Appeal Dismissed

JUDGE

JUDGE

Irshad Ali M/Steno