

Order Sheet

IN THE HIGH COURT OF SINDH, KARACHI
Execution No. 81 of 2018

Date	Order with signature of Judge
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- 1.For hearing of CMA No.2342/23
- 2.For hearing of CMA No.494/25

11.11.2025

Mr. Abdul Qayyum Khan Abbasi, advocate for DH
Mr. Ayan Mustafa Memon, advocate for JD

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Learned Counsel for the Applicant has filed CMA No.494 of 2025, whereby he seeks review/recall of the Order dated 07.08.2025 (“the Impugned Order”), passed on CMA No.2342 of 2023. The said Order reads as follows :-

“Learned counsel for the Decree Holder submits that his application being CMA No.2342/2023 in which he requests that instant Execution proceedings may be reactivated which were sine die adjourned due to negotiations between the parties. He however submits that negotiations have not yet borne fruit, and therefore submits that he wants to proceed with the execution application. Such request is granted. Adjourned to 08.10.2025.”

As per learned counsel for the Applicant, he submits that a Settlement Agreement was entered into between the Parties, after which, as per his submissions, this matter cannot be proceeded further in the instant Execution proceedings.

Learned Counsel for the Applicant has referred to Page-431 of the File, whereby, there is an Order dated 24.12.2021, passed in Special HCA No. 29 of 2019, in which the said Appeal (which was filed by the instant Judgement Debtor against the Decree currently under Execution) was dismissed as withdrawn (along with all listed applications). Learned Counsel however contends that the said Special HCA was only withdrawn due to the Settlement Agreement being reached between the Parties, which is available at Page-379 of the File. Learned Counsel further submits that the Clause 9.1 of the said Settlement Agreement provides certain conditions, before which the Decree Holder could not re-commence the Execution proceedings. He submits that the said conditions were not fulfilled, and that is why the Execution proceedings should not advance further at this juncture. He places reliance on the Decree Holder’s CMA No. 2342 of 2023 at Paragraph No. - 4, in which he states that

the Decree Holder themselves have placed on record the said Settlement Agreement, and therefore, they now should not be allowed to rescind from their position.

Conversely, learned Counsel for the Decree Holder has vehemently opposed the contentions raised by the Applicant. He submits that no proper settlement has been reached between the parties, and therefore, he has invoked his legal rights to continue Execution proceedings. He further states that is the reason why he had filed CMA No. 2342 of 2023 (in which the Impugned Order was filed). He relies upon sections 22 and 27 of the Financial Institutions (Recovery of Finances) Ordinance 2001 in support of his contentions, and submits that the instant CMA No.494 of 2025 for review/recall is not maintainable, under the applicable banking laws as well as under general law, and is liable to be dismissed.

I have heard the learned Counsels. It is observed from the record that the said Settlement Agreement referred to by the Applicant was not made a Rule of the Court by learned Division Bench in Sp. HCA No. 29 of 2019, and the said disposal order dated 24.12.2021 (at Page-431 of the File) in Sp. HCA No. 29 of 2019 simply shows that the said HCA was withdrawn.

Furthermore, the said Settlement Agreement did not appear to be part of the Trial proceedings, nor was it made part of the Appellate proceedings in the disposal order dated 24.12.2021. Sitting herein as an Executing Court, this Court is only concerned with the execution of the Decree itself, subject to all legal formalities and compliances. The Applicant through this instant Application, appears to be attempting to estop the Court from proceeding with the Execution of the Decree indefinitely, which defies both law and logic. Moreover, the Applicant did not provide any provision of law in support of his contentions made in the Application, nor do I see any merit in the said Application.

Accordingly, this instant CMA No.494 of 2025 is dismissed.

J U D G E

Ashraf