ORDER SHEET

HIGH COURT OF SINDH, BENCH AT SUKKUR

C.P No.D-1022 of 2023
C.P No.D-1023 of 2023
C.P No.D-1024 of 2023

Date	Order with signature of the Judge

Disposed of Case

1. For orders on exemption application (CMA No.3026, 3029 & 3032/2026)
2. For hearing of contempt application (CMA No.3027, 3030 & 3033/2026)
3. For hearing of Review Application (CMA No.2140, 2137 & 2134/2026)

17.07.2026

Syed Sardar Shah Jillani, Advocate for the Petitioner (s)
Mr.Muhammad Uzair Shaikh, Advocate for Respondent No.1
Syed Naveed Ahmed Shah, D.A.G

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ARBAB ALI HAKRO, J.- These three connected constitutional petitions, together with the contempt and review applications arising therefrom, were heard analogously, as they emanate from a common compromise decree and call into question the effect of a consent order dated 16.04.2024, passed by this Court.

2. The factual background of the case is that the respondent-Bank instituted Suit No.47 of 2010 under Section 9 of the Financial Institutions (Recovery of Finances) Ordinance, 2001, before the Banking Court at Sukkur, seeking recovery of its outstanding finance. On 30.09.2013, the suit was decreed on the basis of a compromise under Order XXIII Rule 3 CPC, incorporating a detailed repayment schedule and providing that, in the event of default in two consecutive instalments, the settlement and financial relief would stand withdrawn, and the Bank would be entitled to file for execution. The decree also made the sanction letter part of the compromise. The petitioners subsequently defaulted, leading to execution proceedings and the attachment of their mortgaged property, i.e., Bungalow C.S.No.6/6/1, measuring 9223 square feet, situated at Ward-F, Bunder Road, Barrage Colony, Sukkur.

3. The petitioners invoked this Court's constitutional jurisdiction through the present petitions, seeking permission to pay the decretal

amount in instalments and protection against coercive measures. During the pendency of these petitions, on 16.04.2024, learned counsel for the Petitioner(s) and learned counsel for respondent No. 1 (National Bank of Pakistan) filed a joint statement, praying that the remaining decretal amount outstanding against the petitioners, “in the light of compromise decree dated 30.09.2013”, be paid in five instalments, each after three months, instead of the eight instalments earlier prayed for before the Banking Court. The order of this Court dated 16.04.2024 records that, on the basis of this joint statement, the petitions were disposed of with consent, with the stipulation that, in case of default, the Bank would be entitled to file an application for contempt against the petitioners.

4. Pursuant to the said order, the petitioners assert that they deposited the entire outstanding decretal amount in five instalments, well within the stipulated period, and produced pay orders and bank receipts evidencing payment of Rs.253,25,450/- in aggregate. They further assert that, despite full satisfaction of the liability, the Bank has refused to return the original title documents, execute the redemption deed, or acknowledge discharge of liability.

5. On 02.05.2024, respondent No.1 filed Review Applications under Section 114 read with Section 151 CPC, seeking recall of the order dated 16.04.2024 on the ground that the joint statement was filed by its counsel without prior approval of the competent authority and was allegedly contrary to the terms of the compromise decree.

6. On 28.04.2026, the petitioners instituted contempt applications under Article 204 of the Constitution read with Sections 3 and 4 of the Contempt of Court Act, 1976, alleging willful disobedience of the order dated 16.04.2024 by respondent No.1, who failed to return the title documents and to execute redemption despite full payment.

7. Learned counsel for the petitioners submitted that the order dated 16.04.2024 is a consent order, founded on a joint statement duly signed by counsel for both sides, and has attained finality. It

was argued that the record clearly shows the presence of counsel for respondent No. 1 and the disposal of the petitions with consent, and that such record cannot be impeached by subsequent internal correspondence of the Bank. It was contended that the petitioners have honoured their undertaking in letter and spirit by depositing the entire outstanding decreetal amount in five equal instalments within the stipulated time, as evidenced by pay orders and bank acknowledgements. Upon full satisfaction of the liability, the Bank was under a binding obligation to return the original title documents, execute the redemption deed, and issue a satisfaction certificate. Its refusal to do so, despite repeated approaches and even the service of legal notices upon the Head of the Asset Recovery Group, constitutes willful and contumacious disobedience of the order of this Court. Learned counsel further argued that the review applications do not disclose any ground recognised under Order XLVII Rule 1 CPC. No error apparent on the face of the record is pointed out; no discovery of new and important evidence is pleaded; nor is any clerical or accidental mistake alleged. The sole grievance, that counsel allegedly acted without internal approval, is, at best, an internal dispute between the Bank and its counsel, which cannot be converted into a ground for review. It was emphasised that the vakalatnama executed by respondent No. 1 expressly authorises its counsel "to compromise the case" and to do all acts necessary for the case. Once such authority is conferred and the Court records a consent order, the client cannot resile from the consequences by pleading lack of internal sanction. Learned counsel prayed for the dismissal of the review applications with costs and for allowing the contempt applications by directing the Bank to forthwith return the title documents, execute redemption, and issue satisfaction, together with appropriate coercive directions. In support of his contentions, learned counsel for the petitioners relied upon case law reported as 2025 SCMR 558, 2005 SCMR 946, and PLD 2010 SC 657.

8. Learned counsel for respondent No. 1/Bank contended that the compromise decree dated 30.09.2013, passed by the Banking Court, governs the rights and obligations of the parties. Under that decree, upon default on two consecutive instalments, the settlement and financial relief were withdrawn, and the Bank became entitled to file for execution. It was submitted that the petitioners repeatedly defaulted, causing substantial financial loss to the Bank, and that execution applications remain pending before the Banking Court. It was argued that the joint statement dated 16.04.2024 was filed by an associate advocate without prior written consent or approval of the competent Bank authorities and contrary to the terms of the compromise decree, particularly regarding cost of funds and accrued markup. The Bank's Regional Litigation Centre, Hyderabad, subsequently issued a letter dated 25.04.2024 to its counsel, seeking an explanation for filing the joint statement without authorisation. This, according to learned counsel, demonstrates that the Bank never intended to waive its rights under the compromise decree or to accept payment of only the principal amount without cost of funds and other charges. On this premise, learned counsel submitted that the order dated 16.04.2024, being based on an unauthorised joint statement, suffers from legal and procedural irregularities and warrants review under Section 114 CPC. It was urged that the impugned order fails to consider the substantial financial loss suffered by the Bank, ignores the pendency of execution proceedings, and unjustly favours the petitioners. The review applications, it was argued, seek to uphold the sanctity of the compromise decree and to prevent further loss to the Bank. As regards contempt, learned counsel contended that, in the presence of pending review applications challenging the very order alleged to have been violated, the element of willful disobedience is absent. It was submitted that the Bank has been pursuing its legal remedies and that any alleged non-compliance is bona fide and rooted in a genuine dispute regarding the correctness and validity of the order dated 16.04.2024. Learned counsel for respondent No. 1 further

contended that, notwithstanding the deposit of the decretal amount in instalments pursuant to the consent order dated 16.04.2024, substantial components of the Bank's claim, i. e., pre- default markup, cost of funds, accrued charges, and other contractual liabilities, still remain outstanding against the petitioners under the compromise decree dated 30.09.2013. Learned counsel prayed for acceptance of the review applications, recall of the consent order, and dismissal of the contempt applications.

9. The Learned Deputy Attorney General submitted that both applications are not maintainable and that any fresh cause of action arising thereafter falls exclusively within the jurisdiction of the executing court. He emphasised that neither the review applications nor the contempt applications can be entertained in constitutional jurisdiction, and that the petitioners must pursue their remedies before the executing court.

10. Heard arguments and perused the record, including the case law relied upon by the learned counsel for the Petitioners.

11. Upon careful examination of the entire record, including the compromise decree dated 30.09.2013, the joint statement filed on 16.04.2024, the consent order passed on the same date, the vakalatnama executed by respondent No.1, and the subsequent review and contempt applications, it is clear that the scope of the present proceedings is narrow and clearly defined. The constitutional petitions were originally brought before this Court for a limited purpose: the petitioners sought indulgence in the mode of payment of the decretal amount, requesting that the outstanding liability be permitted to be deposited in instalments. This Court, upon a joint statement submitted by learned counsel for both sides, disposed of the petitions with consent, strictly to the extent of allowing the petitioners to deposit the decretal amount in five equal instalments. The record explicitly reflects that the petitions were disposed of “with consent” and that the only operative direction was

confined to the manner of payment. No other substantive relief was granted, nor did this Court assume jurisdiction over any ancillary or consequential matters arising out of the compromise decree or its execution.

12. The review applications filed by respondent No.1 seek to recall the consent order on the ground that the joint statement was allegedly filed without prior approval of the Bank’s competent authority. However, this contention does not fall within any of the recognised grounds under Order XLVII Rule 1 CPC. No error apparent on the face of the record has been pointed out; no newly discovered matter has been pleaded; nor is any clerical or accidental mistake shown. The record clearly shows the presence of counsel for respondent No.1, who was duly authorised by a vakalatnama expressly empowering him “to compromise the case” and to perform all acts necessary for the conduct of the litigation. Once such authority is conferred and the Court records a consent order on the basis of a joint statement, respondent No.1 cannot subsequently seek to avoid the consequences by pleading lack of internal approval. Any internal administrative dispute between the Bank and its counsel cannot be permitted to unsettle a judicial order recorded on the basis of valid authority. The review applications are, therefore, wholly misconceived and legally incompetent.

13. Turning to the contempt applications, the petitioners have sought directions for the return of the original title documents, the execution of a redemption deed, the issuance of a satisfaction certificate, and other coercive measures. These prayers, however, fall entirely outside the scope of the constitutional petitions and cannot be adjudicated in contempt jurisdiction. The constitutional petitions were never adjudicated on the merits; they were disposed of only to the extent of permitting payment of the decretal amount in instalments. Once the decretal amount has been deposited, any consequential relief, whether release of security, redemption, satisfaction, or enforcement of rights arising from the decree, must

be sought before the executing court, which alone is competent to supervise, enforce and give effect to the decree passed by the Banking Court. The executing court is the proper forum to determine whether the decree has been satisfied, whether the mortgaged property is liable to be released, and whether any further obligations remain outstanding. The contempt jurisdiction under Article 204 of the Constitution cannot be expanded to adjudicate matters that properly belong to the executing court, nor can it be used as a substitute for execution proceedings.

14. It is a settled principle that constitutional jurisdiction is not intended to bypass or supplant the ordinary remedies available under the law. The petitioners, having already availed themselves of the consent order by depositing the decretal amount, retain full recourse before the executing court to enforce all consequential rights arising from the satisfaction of the decree. The prayers pressed in the contempt applications therefore fall outside the scope of the constitutional petitions and cannot be entertained.

15. Further, the learned counsel for respondent No. 1's contention that pre-default markup, cost of funds and other contractual liabilities remain outstanding under the compromise decree does not advance the Bank's case in the present proceedings. These components of the decretal claim arise directly from the compromise decree dated 30.09.2013 and fall squarely within the jurisdiction of the executing court, which alone is competent to determine the exact quantum of liability, whether any portion remains unpaid, and whether the decree has been fully satisfied. The constitutional petitions were never adjudicated on the merits; they were disposed of only to the limited extent of permitting deposit of the decretal amount in instalments. The consent order dated 16.04.2024 did not undertake any adjudication of pre-default markup, cost of funds or accrued charges, nor did it purport to waive or modify any term of the compromise decree. The Bank's assertion that such amounts remain outstanding must therefore be raised before the executing court,

which is the proper forum to examine and determine all post-decretal liabilities.

16. In view of the above discussion, it is clear that the consent order dated 16.04.2024 was passed strictly within the limited framework agreed between the parties, and this Court cannot enlarge that framework or assume jurisdiction over matters exclusively triable before the executing court. Accordingly, both the review applications and the contempt applications are devoid of merit and are hereby **dismissed**, along with the pending miscellaneous application(s). The office is directed to place a signed copy of this order in the captioned connected petitions.

JUDGE

Faisal Mumtaz/PS