

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
1st. Appeal No. D- 18 of 2024
[ZTBL vs. Abdul Sattar and others]

Date of hearing	Order with signature(s) of Judge(s)
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fresh case

- 1. For orders on office objection at flag ‘A’
- 2. For orders on CMA No.855/2024 (Ex.A)
- 3. For hearing of main case

12.08.2026

Mr. Fareed Ahmed Soomro, Advocate for the Appellant-Bank
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ORDER

Muhammad Faisal Kamal Alam, J;- The Appellant has challenged the impugned Order dated 21.03.2024 passed by the learned Banking Court-II, Sukkur, rejecting the plaint of the Appellant-Bank in Suit No.490 of 2018 preferred against the private respondents. The Banking Court is of the view that since controversy about the same loan/finance facility was earlier adjudicated in Suit No.16 of 2005, in favour of private respondents, which was maintained up to the Honourable Supreme Court, the Appellant-Bank cannot maintain the above Suit.

Learned counsel for the Appellant-Bank has stated that the observation mentioned in the earlier judgment about non-filing of Suit has been cured by filing the above Suit No.490 of 2018 and impugned Order is erroneous on law and facts, because it has rejected the plaint at the stage of leave granting order. He has cited the case reported as **2019 CLD 1031 (Sindh)** Anees-Ur-Rehman vs. Faysal Bank Limited)

Since we are hearing the maintainability, therefore, notice is not required to be issued to the other side.

We have perused the entire record. Suit No.16 of 2005 filed by the Respondents was decreed in favour of the respondents as

prayed, the prayer clause of the above Suit is reproduced as under;-

- “(a) To declare that father of the plaintiffs No.1 to 13 and the plaintiff No.14 had not obtained the alleged loan of any amount from the defendants Bank, therefore, they are not liable to pay the same to the Defendants.
- (b) To declare that the notice for recovery of Rs.3,72,160/- void, ab-intio and is not sustainable in the eyes of law.
- (c) To grant mandatory injunction thereby direct the Defendants to withdraw notice for recovery of Rs.3,72,16/= (sic)
- (d) To grant permanent injunction thereby restraining the Defendants from recovery of Rs.3,72,160/- or any amount what-so-ever in respect of alleged sanction of loan, dated 21.01.1989.
- (e) To award the cost of the suit.
- (f) To grant any other equitable relief which this Honourable Court as it deems fit in the circumstances of the case.”

The learned Division Bench of this Court in Ist. Appeal No.D-17 of 2012 preferred by the present Appellant-Bank has considered all aspects of the case including the appraisal of the evidence and exhibits produced and maintained the order of the learned Banking Court and the same was unsuccessfully challenged before the Apex Court. All earlier judgments are available in the file from pages 181 to 227.

The Courts have given judicial determination in respect of the same loan/transaction/finance facility regarding which the subsequent Suit (*supra*) has been filed by the Appellant-Bank. Once all the issues are directly and substantially decided in the earlier round of litigation, they cannot be reagitated in the subsequent proceedings, as envisaged under Section 11 of the CPC.

With regard to the case law cited above, the same is distinguishable from the facts of the present case and the principle

laid down there does not apply to the peculiar undisputed facts of the present case.

Consequently, the plaint of the above Suit No.490 of 2018 was barred by law, inter alia, Section 11 of the CPC, envisaging the principle of *res judicata*. Consequently, no interference is required in the impugned order and this Appeal is dismissed in *limine* along with pending application.

Judge

Judge

ARBROHI/PS