

IN THE HIGH COURT OF SINDH AT KARACHI

Suit No. B-5 of 2014

Askari Bank Ltd. ----- Plaintiff

Versus

First Capital Equities Limited ----- Defendant

Date of hearing: 30.11.2017.

Date of judgment: 30.11.2017.

Plaintiff: Through Mr. Behzad Haider Advocate.

Defendant: None present for Defendant.

J U D G M E N T

Muhammad Junaid Ghaffar, J. This is a Suit under Section 9 of the Financial Institutions (Recovery of Finances) Ordinance, 2001 whereby, on a default committed by the defendant, the Plaintiff has claimed an amount of Rs. 205,624,524.08 along with cost of funds and a consequent Decree for sale of mortgaged properties and assets etc. against the defendant. Leave to Defend was filed but was dismissed on 16.4.2015 for non-prosecution. Thereafter, a restoration application was filed but was not diligently pursued and on 29.11.2017 the restoration application was also dismissed.

2. Learned Counsel for the Plaintiff submits that the Defendant was provided Running Finance Facility pursuant to an Agreement dated 06.06.2008 for an amount of Rs. 250 million which was renewed on 01.04.2009 for an amount of Rs. 195 million and was further renewed for the same amount on 01.06.2010 and the expiry of the Agreement was on

31.03.2011. He submits that thereafter the defendant defaulted, hence instant Suit.

3. I have heard the learned Counsel and perused the record including the Account Statements filed along with the plaint. From perusal of such documents it appears that Running Finance Facility was accorded and the same continued with renewals as above. Thereafter the defendant defaulted. Learned Counsel has filed a breakup which reflects that the outstanding principal amount is Rs. **103,540,302.39** and the outstanding markup up to the date of Agreement i.e. 31.03.2011 is Rs. **35,369,226.23**. Since the Defendant has failed to get any Leave to defend, and otherwise has failed to assist the Court in any manner, therefore, in terms of the Financial Institutions (Recovery of Finances) Ordinance, 2001 the averments of the plaint are to be treated as correct.

3. Accordingly, the Suit is decreed for an amount of Rs. **138,909,528.62** which includes the principal and mark-up as above, along with cost of funds from the date of default i.e. 01.04.2011 till realization with a further Decree for selling the mortgaged properties. Office to prepare decree accordingly.

J U D G E