

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD  
C.P.No.D-2387 of 2019

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DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection
2. For orders on MA-10403/19
3. For hearing of main case.

**16.12.2019.**

Mr. Muhammad Sulleman Unar, advocate for petitioner.

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The facts in brief necessary for disposal of the instant petition are that the petitioner entered into agreement with *ALTER S.A.R.L Laboratories Portugal* and made payment of U.S \$ 107,178.00 to said company for purchase of certain medicine, which were not supplied to him as per terms and condition of the said agreement. Consequently, the petitioner filed a suit for the recovery of above said amount before learned 3<sup>rd</sup> Senior Civil Judge, Hyderabad. It was decreed ex parte. Such ex-parte decree was followed by filing of an Execution Application, which could not be satisfied for one or other reason therefore, the petitioner approached this Court by filing a petition. It was disposed of by this Court with an observation that the executing Court to determine the question relating to Execution of such decree. In the meanwhile, the petitioner by way of filing an application u/s 151 C.P.C prayed for adequate action against the private respondent for his failure to comply with order dated 31.05.2010 of learned executing Court, which was sent to him to be complied with as a Director General (E-

I) Ministry of Foreign Affairs, Government of Pakistan at Islamabad. Such application was dismissed by learned Executing Court vide its order dated 17.03.2018. It was challenged by the petitioner by way of filing a Civil Revision Application. It was dismissed by learned II<sup>nd</sup> Additional District Judge, Hyderabad vide his order dated 13.07.2019, which is impugned by the petitioner before this Court by way of instant constitutional petition.

It is contended by learned counsel for the petitioner that the private respondent being officer of Ministry of Foreign Affairs in fact has acknowledged the receipt of decretal amount which he is not transferring to learned Executing Court to be paid to the petitioner as such he is liable for the prosecution in accordance with law.

We have considered the above arguments and perused the record.

Admittedly the private respondent was neither party in main suit nor in Execution proceedings. The petitioner by way of making an application u/s 151 CPC sought for adequate action against him (private respondent) on the basis of presumption that he has acknowledged the receipt of decretal amount. Nothing has been brought on record which may suggest that the decretal amount has actually been acknowledged by the private respondent. In these circumstances learned Executing Court has rightly dismissed the application of the petitioner which he has moved there u/s 151

CPC for action against the private respondent, which is rightly maintained by learned Revisional Court by way of impugned order, those are not calling for any interference by this Court, in exercise of its constitutional jurisdiction by way of instant constitutional petition, it is dismissed in limine.

JUDGE

JUDGE

Ahmed/Pa,