

Judgment Sheet

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

1st Appeal No. D – 36 of 2017

Before:

Mr. Justice Muhammad Junaid Ghaffar
Mr. Justice Zulfiqar Ali Sangi

Appellant: Zaheeruddin since deceased through his legal heirs Mst. Sabira & others, through Mr. Sajjad Muhammad Zangejo, Advocate.

Respondent: M/s Zarai Tarqati Bank Limited, through Mr. Faheem Majeed Memon, Associate of Mr. Fayyaz Ahmed A. Soomro, Advocate.

Date of hearing: **12-10-2021**

Date of judgment: **12-10-2021**

J U D G M E N T

Muhammad Junaid Ghaffar, J. – This Appeal under Section 22 of the Financial Institutions (Recovery of Finances) Ordinance, 2001 (“Ordinance”) has been filed against judgment and decree dated 31-10-2017 and 03-11-2017, respectively, passed by the learned Judge of Banking Court-I, Sukkur in Suit No.02 of 2017, whereby the Suit has been decreed.

2. Learned Counsel for the Appellant submits that the learned Banking Court has erred in law while dismissing the leave to defend application and decreeing the Suit, whereas, the legal questions so raised have also not been attended to. He has prayed for setting aside the impugned judgment and remanding the matter to the Banking Court for deciding the same afresh.

3. On the other hand, Respondent’s Counsel has supported the impugned judgment and submits that the facility has not been denied and in support, he has relied upon the cases reported as S.M.E., Leasing

Limited v. Messrs Umar Knitting and 2 others (2011 CLD 1144), Silkbank Limited v. Messrs Dewan Sugar Mills Limited (2011 CLD 436), Kasb Bank Limited v. Mirza Ghulam Mujtaba and 2 others (2011 CLD 461), Equity Participation Fund v. Messrs Abrasive Products Co. Limited and 4 others (2012 CLD 971), Messrs Shahi Textiles and 4 others v. Habib Bank Limited through President (2012 CLD 506) and Ghulam Hassan v. Jamshaid Ali and others (2001 SCMR 1001) as well as Act XLII of 1973 Loans for Agricultural Purposes Act, 1973.

4. We have heard both the learned Counsel and perused the record.

5. Insofar as the availing of finance facility is concerned, it transpires from the record as well as R&Ps of the case file that loan was obtained and some repayments were also made. The only issue raised was as to the amount of loan and payments made pursuant to such loan, however, we have confronted the Appellant's Counsel that as to what defence was taken by the Appellant before the Banking Court, and in support, he has referred to the leave to defend application. On perusal of the same, it depicts that the same was not filed in compliance of Section 10(4) of the Ordinance, which requires to state the amount of finance availed; the amount paid along with dates of payments; and the amount if any which the borrower disputes as payable to Bank. In fact, from perusal of the R&P of the Suit file it reflects that no single document was annexed with the leave to defend application to support the stance taken by the Appellant, and therefore, no case is made out; hence, the Appeal has no merits and is therefore **dismissed**.

J U D G E

J U D G E

Abdul Basit