

ORDER SHEET
**HIGH COURT OF SINDH CIRCUIT COURT,
HYDERABAD**

C.P No.D-673 of 2021

DATE

ORDER WITH SIGNATURE OF JUDGE

Present:-

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Adnan Iqbal Chaudhry

Date of hearing & Order:

24.11.2021

Mrs. Razia Ali Zaman Khan, advocate for petitioner

Mr. Muhammad Humayoon Khan, DAG

ADNAN-UL-KARIM MEMON, J:-Through this petition, petitioner is seeking direction against respondent No.3/ Manager, Microfinance Bank Ltd for issuance of 'Clearance/No Dues Certificate, upon receiving principal loan with interest and restraining them from harassing and taking coercive action against the petitioner for payment of alleged unjustified amount of Rs.15,00,000/-.

2. Learned counsel for the petitioner contends that there is no denial of the fact that petitioner had availed the loan facility of Rs.5,00,000/- from the respondent No.3, and he is ready and willing to pay the remaining outstanding amount alongwith interest in accordance with law/policy; however, the respondent No.3 is also demanding an amount of Rs.15,00,000/-, alleged to have been paid to petitioner. She submits that the alleged amount has never been sent to petitioner's account and earlier petitioner had also filed a petition bearing No.D-678 of 2020 in this regard; however, same was dismissed as withdrawn vide order dated 09.07.2020 with permission to approach the Banking Court concerned. She also contends that after passing of that order petitioner approached the learned Banking Court concerned, but the learned Presiding Officer was not satisfied on the point of jurisdiction and consequently petitioner withdrew his suit. She further contends that since the officials of respondent No.3 are continuously harassing the petitioner for payment of unjustified amount, as such, he has approached this Court. She lastly submits that harassment tactics of respondent No.3 are apparent from the fact that petitioner is being dragged into frivolous litigation by it. In support thereof she placed on record certified copy of memo of plaint of Summary Suit filed by respondent No.3 against petitioner before learned District Judge Dadu.

3. We asked the learned counsel to satisfy as to how issue of settlement of accounts and/or factual controversy, requiring recording of evidence, can be decided under writ jurisdiction. Learned counsel submits that she will be satisfied and will

not press the instant petition, if petitioner may be permitted to put his defence in the aforesaid summary suit and/or file separate proceedings in accordance with law. In our view there is no need of such permission, as the petitioner is at liberty to either put his defence in the aforesaid summary suit and/or avail separate remedy, if provided under the law; however, instant petition, being not maintainable is dismissed with no order as to cost.

JUDGE

JUDGE

Sajjad Ali Jessar