

Order Sheet
IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
1st Appeal No. D- 28 of 2019

Date	Order with Signature of Hon'ble Judge
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Hearing of case

For hearing of main case

19-01-2022

Mr. Faheem Majeed Memon, Advocate for the Appellant.
Mr. Ashok Kumar K. Jamba, Advocate for the Respondents.

Through this 1st Appeal, the Appellant has impugned Order dated 02.11.2019, passed by learned Judge, Banking Court-I, Sukkur in Suit No. 52 of 2015 (*M/s Zarai Taraqati Bank Ltd. V. Abdul Ghafoor and others*).

Learned Banking Court while deciding application under Section 10 of the Financial Institutions (Recovery of Finances) Ordinance, 2001 has been pleased to reject the Plaint by exercising suo moto powers under Order 7 Rule 11 CPC. The primary ground which has prevailed upon the learned Banking Court is that the Suit was time barred.

We have heard both the learned Counsel for the parties and perused the record. Respondents Counsel has been confronted as to how the Suit could be time barred when the loan as per plaint was disbursed in 2005, whereas, limitation is 12 years under Article 132 of the Limitation Act, and at best, leave could have been granted; but the plaint could not be rejected.

To this he is unable to satisfactorily respond; but concedes that if leave be granted then by setting aside the impugned order, matter be remanded to the Banking Court for deciding the same on merits. The Appellants Counsel also agrees.

Accordingly, by consent, impugned order dated 02.11.2019 is set aside. The application under Section 10 CPC filed by the Respondents / Defendants is allowed by granting leave. Parties to approach learned Banking Court for leading their evidence and thereafter Banking Court shall decide the Suit on merits in accordance with law.

By consent, instant 1st Appeal stands allowed / disposed of in the above terms.

JUDGE

JUDGE

Ahmad