

IN THE HIGH COURT OF SINDH AT KARACHI

PRESENT:

***Mr. Justice Aqeel Ahmed Abbasi
Justice Mrs. Rashida Asad***

High Court Appeal No.341 of 2021

Standard Chartered Bank Pakistan Limited.....Appellant

Versus

Iqbal Ahmed and 2 others.....Respondents

Appellant : Through Mr. Ghulam Rasool Korai, Advocate.

: Nemo for the Respondents.

Date of Hearing : 24.12.2021

Date of Short Order : 24.12.2021

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ORDER

Through instant High Court Appeal, the appellant has impugned an order dated 21.12.2021 passed by the learned Single Judge of this Court in Suit No.595 of 2018, whereby, according to learned counsel for the appellant, directions have been issued to the representative of the appellant Bank to take the custody of the subject vehicle bearing registration No.AEN-241 and hand it over to the Chief Executive Officer of the Bank, whereas, further directions have been issued to the Official Assignee to submit report in respect of the subject vehicle after consultation with the Registration Authority. It has been contended by learned counsel that no such application was filed seeking such directions, nor any useful purpose will be served if the custody of the subject vehicle is handed over to the appellant at this stage of proceedings, whereas, according to learned counsel, while passing the impugned order, the relevant facts and the order passed by the learned Banking Court in Suit No.595/2018, which has attained finality, therefore, impugned order is illegal and has been passed without lawful authority. It has been prayed that impugned order may be set aside.

2. We have heard the learned counsel for the appellant, perused the impugned order passed by the learned Single Judge, which reflects that through impugned order, neither any pending application has been disposed of nor any final adverse order has been passed relating to merits of the case, which could otherwise give rise to any grievance or cause of action to the appellant to impugn the same before this Court by filing High Court Appeal under Section 15 of the Ordinance 1980 read with Section 3 of the Law Reforms Ordinance, 1972. On the contrary, it appears that during course of proceedings in the aforesaid suit, and in furtherance to an earlier order dated 15.01.2021 passed by the learned Single Judge in the subject suit, which was also assailed by the appellant by filing an Appeal No.273/2021, however, the said appeal was disposed of on the first date of hearing with a small modification only to the extent that Chief Executive of the appellant's bank need not to be served through concerned SHO. Through impugned order, the learned Single Judge, keeping in view the non-compliance of Court's order and evasive response by bank officials, has directed the bank officials to take custody of the subject vehicle and to be hand it over to the Chief Executive Officer of the appellant Bank, as the bank officials could not produce the relevant file/record despite specific directions of the Court. It is observed with concern that tendency to impugn ad-interim orders by filing High Court Appeal, which do not suffer from any jurisdictional defect and patent illegality, and also do not finally decide any pending application or the lis between the parties, has increased, which on the one hand, results in multiplicity of litigation, and on the other hand, causes delay in disposal of cases on merits.

3. Attention of the learned counsel for the appellant was drawn towards this aspect of the matter and also the fate of earlier Appeal No.273/2021 filed against somewhat similar ad-interim order, which was not entertained by this Court, as there was no final determination by the learned Single Judge on the legal issues involved in the suit and,

therefore, learned counsel for the appellant was confronted as to how instant High Court Appeal is maintainable under the facts and circumstances, as discussed hereinabove. In response to such query of the Court, learned counsel for the appellant could not submit any reasonable explanation, however, submitted that the learned Single Judge cannot pass such order in a suit for damages while ignoring the proceedings before learned Banking Court in the above referred suit, therefore, the impugned order is liable to be set aside. We have not been able to find ourselves in agreement with hereinabove contention of the learned counsel for the appellant, as we are of the opinion that during course of proceedings in the aforesaid suit, an order, which is in the nature of ad-interim order, has been passed by the learned Single Judge without deciding the fate of the legal issues involved in the suit, nor any adverse finding has been recorded which otherwise adversely affect the merits of the case. Instant High Court Appeal appears to have been filed in a very casual manner just to linger on the matter, and to cause delay in disposal of the case on merits.

4. Accordingly, we are of the opinion that instant High Court Appeal is misconceived and not maintainable, besides being premature, as no final adverse order has been passed by the learned Single Judge in the aforementioned suit, therefore, the same was dismissed in limine by our short order dated 24.12.2021 by imposing cost of Rs.10,000/- to be deposited in the High Court Clinic.

5. Above are the reasons of the said short order.

JUDGE

JUDGE

Farhan-PS