

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C. P. No. D-733 of 2023

| Date | Order with signature of Judge |
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FRESH CASE.

1. For orders on Misc. No.3355/2023.
2. For orders on Misc. No.3356/2023.
3. For orders on Misc. No.3357/2023.
4. For hearing of main case.

03.02.2023.

Mr. Muhammad Haroon Shaikh, Advocate for Petitioners.

YOUSUF ALI SAYEED, J. - The Petitioners have invoked the jurisdiction of this Court under Article 199 of the Constitution, impugning the Order dated 25.01.2023 made by the learned Vth Senior Civil Judge, Karachi, West, as the Special Court for Cooperative Societies, Karachi, Division, in Society Execution Application No.71/2022 emanating from Society Suit No.1861/2021, whereby the aforementioned Execution Application filed by the Respondent No.1 was allowed in terms of the underlying Decree and a writ of possession issued for eviction of the Petitioners, who were arrayed as the Judgment Debtors No.3 to 6.

On query posed as to what error or infirmity afflicted the impugned Order, learned counsel for the Petitioners contended that an Application under Section 12 (2) CPC had been filed against the underlying judgment and decree, hence the Execution Application ought not to have been proceeded with until the 12(2) Application was decided. Having examined the record, we have observed that the Petitioners have also filed a Misc. Appeal bearing No.10/2023 on the subject, which is pending before this Court, hence it is even not open to them to pursue a parallel remedy in the matter. Even otherwise, recourse of the Petitioners under the Constitutional Jurisdiction of this Court is misconceived.

Under the given circumstances, while granting the application for urgency, we hereby dismiss the same *in limine*, along with the other miscellaneous applications.

JUDGE

CHIEF JUSTICE

MUBASHIR