

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**  
C. P. No. D-1689 of 2023

Date	Order with signature of Judge
------	-------------------------------

FRESH CASE.

1. For orders on Office Objection.
2. For orders on Misc. No.8445/2023.
3. For orders on Misc. No.8446/2023.
4. For hearing of main case.

12.04.2023.

Mr. Saathi M. Ishaque, Advocate for the Petitioners.

-----

**YOUSUF ALI SAYEED, J. -** The Petitioner has invoked the jurisdiction of this Court under Article 199 of the Constitution, impugning the Order dated 24.03.2023 made by the learned VIth Additional District Judge, Model Civil Appellate Court, Central at Karachi, dismissing Civil Revision Application No.32/2023 that had been filed by the Petitioners against the multiple Orders of different dates passed by the learned VIth Senior Civil Judge, Karachi, Central in Execution Application No.01/2020 emanating from Civil Suit No.1448 of 2019.

2. The backdrop to the matter is that the Suit was filed by the Respondent No. 1 for recovery, and culminated in an *ex parte* judgment and decree in his favour dated 05.03.2020, whereby the Respondent No.1 and other defendants were held liable in the sum of Rs.2,800,000/- along with profit of 15% per month from 25.07.2019 till recovery. The Execution was then filed and was allowed after due service vide an order dated 21.10.2020 whereby the JDs were directed to pay the decretal amount within 30 days. Subsequently, in the wake of non-compliance, an application for attachment of property of the JDs was filed, which was allowed vide an order dated 16.12.2020, following which the Court ordered the sale thereof to recover the decretal amount. Show cause notices were issued to the JDs, who appeared and filed a Settlement Agreement on 25.02.2021 for satisfying the decree within a period

of 03 months, with the proceedings accordingly being adjourned by consent of parties. However, on 27.07.2021, it was pointed out that compliance of order dated 25.02.2021 has not been made, hence the Court ordered the Nazir to proceed with the auction of the attached immovable property of the JDs. As such, the property came to be sold to the Respondent No.2 for a sum of Rs.1,51,00,000/-, which was deposited by him, with the sale being confirmed in his favour vide an Order dated 24.01.2023.

3. That Order of 24.01.2023 was challenged through the aforementioned Revision Application, along with subsequent Orders dated 08.03.2023, 13.03.2023 and 17.03.2023, whereby the Court ordered that a writ of possession be issued, then ordered that the writ be executed through police aid, and finally dismissed an application filed by the Petitioner under S.151 CPC seeking that those earlier orders be recalled.
4. While dismissing the Revision, the learned ADJ *inter alia* observed as follows:

“The First Order as being challenged is dated 24.01.2023 whereby the learned Executing Court, confirmed the sale. The confirmation of sale by a Court in Execution Proceedings is dealt under Order XXI Rule 92 CPC and such order is not amenable to Revision but rather the same is appealable in terms of Order XLIII Rule 01-(J) of CPC. It is observed that an application under Order XXI Rule 90 CPC was preferred objecting the auction proceedings and such application stood dismissed vide order dated 15.11.2022 and vide order dated 24.01.2023, the sale was confirmed by executing Court which order is specifically made appealable in terms of Order XLIII hence revision against such order itself is not maintainable and it is because of the fact that the period of preferring an appeal in terms of Order XLIII CPC is 30 days’ virtue article 152 of the limitation Act while for filing Revision is 90 days. The order impugned is dated 24.01.2023 while it is being challenged on 21.03.2023 through present revision which as stated thus is not maintainable, for an appeal is to be preferred within period of 30 days in terms of Order XLIII CPC.

Further the next two orders dated 08.03.2023, where Court issued writ of possession and 13.03.2023 where Court issued writ of possession through Police Aid having been challenged in revision are concerned, firstly, such orders were done in furtherance of satisfaction of execution as Court had confirmed the sale in favor of auction-purchaser and despite directions to applicants for vacation of the premises, it not having been done, Court resorted to satisfaction of decree and passed order for issuance of writ which as stated was an act on part of the Court for "Satisfaction" of the decree and followed by issuance of writ through police aid which Court can do so in terms of section 74 of the Civil Procedure Code.

5. At the outset, we had posed a query to learned counsel as to whether the underlying Judgment and Decree remained in the field unimpaired, which he conceded was so. Furthermore, when queried as to what error or infirmity then afflicted the Orders of the fora below, no cogent argument was forthcoming.
  
6. Under the given circumstances, the Petition appears to be devoid of force and hereby stands dismissed *in limine* along with pending miscellaneous applications.

JUDGE

CHIEF JUSTICE

MUBASHIR