

# IN THE HIGH COURT OF SINDH AT KARACHI

I.A No. 99 of 2021

Present:

Mr. Justice Irfan Saadat Khan  
Justice Ms. Sana Akram Minhas

Muhammad Azmatullah,  
Appellant:

Mr. Kh. Saif-ul-Islam, Advocate.

..Vs..

Zarai Taraqiati Bank Ltd.,  
Respondent No.1:

Mr. Ghulam Mujtaba Phull,  
Advocate.

The Banking Court No.1,  
Karachi.

Nemo for Respondent No.2.

Date of hearing:

03.05.2023.

Date of decision:

03.05.2023.

## J U D G M E N T

**IRFAN SAADAT KHAN, J.** This First Appeal (1<sup>st</sup> Appeal) has been filed against the judgment dated 22.10.2021 passed in Suit No.653/2018 by the Banking Court No.I Karachi, which was filed by the Bank for recovery of Rs.6,65,625/- and was decreed in the sum of Rs.4,95,000/-, alongwith cost of suit and cost of funds from the date of default.

On 03.12.2021 notice was issued in the instant matter. On 04.3.2022 at the request of the counsel for the appellant, the Executing Court was directed not to finalize the execution proceedings upon the assurance of the appellant that he will deposit Rs.100,000/- towards partial payment of the decretal amount. Then after accepting the request of the appellant, he was directed to deposit the partial decretal amount of Rs.1,00,000/-, without prejudice to the claim of both the parties on merits. The

Executing Court was then directed not to finalize the execution proceedings till the next date of hearing.

The matter thereafter came up for hearing on 17.4.2023, on which date it was observed that despite the fact that the appellant has promised to pay the amount of Rs.1,00,000/- and thereafter execution proceedings were stayed however no partial payment of the decretal amount of Rs.1,00,000/- was made. Thereafter once again a chance was given to the appellant to pay the decretal amount within three days' time.

Today, when the matter was called Mr. Imran Taj, Advocate holding brief for Mr. Khawaja Saif-ul-Islam, Advocate was categorically asked about the partial payment of decretal amount of Rs.1,00,000/- to which he stated that appellant is not willing to pay the said amount of Rs.1,00,000/-. The record reveals that the appellant duly promised on 04.3.2022 that he is willing to pay the said amount and on his promise and assurance time was granted to him to deposit partial payment of amount of Rs.1,00,000/- and the Executing Court was directed not to finalize execution proceedings. It is also a matter of record that uptill 17.4.2023, when the matter was again fixed for hearing, the said amount was not paid. The Court thereafter again showed leniency to the appellant by directing him to deposit the said amount within three days' time but the appellant has failed to take advantage of this leniency and grace shown by the Bench with regard to deposit of only partial amount with direction to the Executing Court not to finalize execution proceedings but the appellant has miserably failed to take advantage of leniency and the grace shown by the Bench and has now shown his unwillingness in payment of the partial decretal amount and has

not paid the same, which clearly proves that appellant is not willing to take advantage of the grace and leniency shown by the Court despite given chances. Hence, in view of these circumstances, the instant 1<sup>st</sup> Appeal does not merit consideration; the same stands dismissed in limine alongwith the listed application.

JUDGE

JUDGE

Karachi:  
Dated:03.05.2023.