

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

**Present: Muhammad Shafi Siddiqui
Jawad Akbar Sarwana, JJ**

First Appeal No.11 of 2016

Mrs. Nazima Aqeel & others
Versus
Atif Ali & others

Date	Order with signature of Judge
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1. For hearing of CMA 2121/23
2. For orders on office objection/reply 'A'
3. For hearing of main case.
4. For hearing of CMA 3484/17

Dated: 17.10.2023

Mr. Mukhtar Ahmed Kuber for appellants.
Mr. Muhammad Khalid Hayat for respondents.

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Heard the counsel.

This being First Appeal under Special Banking jurisdiction has challenged an order passed by Banking Court in Suit No.1880 of 2009 whereby an application under Order I Rule 10 read with section 151 CPC filed by appellants, as being interveners to the suit, was dismissed. It is appellants' case that they were bona fide purchasers of a premises having been subleased to them without notice/knowledge of any dispute between borrower and the bank and interest in the subject property developed upon transfer by virtue of a subleases executed by the borrowers.

Perhaps the subject leased property having been mortgaged with the financial institution is not disputed, and the interest that has developed later to such mortgage is a secondary interest as originally the property was mortgaged with the financial institution in pursuance

of loan extended to borrower and for its recovery they have pursued the remedy in shape of above referred suit. Except the borrower and the customer, as defined in Financial Institutions (Recovery of Finances) Ordinance, 2001, no one else could be made a “party” in the proceedings (banking suit) as being necessary and proper party and hence in consequence whereof the application (under order I Rule 10 CPC) was dismissed and we do not find any reason to interfere.

Learned counsel lastly submits that the appellants have moved an application in terms of Section 19 of Financial Institutions (Recovery of Finances) Ordinance, 2001 for the investigation of their claim. If that has been done by the appellants, they may pursue their remedy, which may be dealt with accordingly as required under the law.

In view of the above, the impugned order does not require any interference and instant appeal is accordingly dismissed along with listed applications.

Judge

Judge