

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI

**First Appeal No.74 of 2023**

Mst. Badia Tariq & another  
Versus  
United Bank Limited & others

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
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1. For orders on CMA No.4076/2023.
2. For hearing of main case.

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**Dated 24.11.2023**

Mr. Abdul Shakoor, Advocate for Appellants.

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We have heard Mr. Abdul Shakoor, learned counsel for the appellants and perused the material available on record.

In a decreed banking suit, an application under Section 12(2) CPC was filed by the appellant/defendant, which ended up in non-prosecution. For its restoration, an application was also filed which was dismissed on merit having no plausible grounds for its restoration, hence this Appeal.

Record reveals that numerous opportunities and chances were availed by the appellant to pursue application under Section 12(2) CPC but all in vain. These numerous chances were not denied, however, we have provided an opportunity to the appellant to let us know as to what grounds were available for his application under Section 12(2) CPC which challenged the judgment and decree involving fraud. Appellant has only pleaded one ground that the appellants/defendants being guarantors were not served with the summons of the suit. We have again enquired as to whether all three modes were adopted to effect service upon the appellants/defendants, learned counsel submits that three modes were exhausted but the only way service was effected was by way of

publication, whereas, service of summons was not proper by way of bailiff and registered post/ courier.

This is the only ground raised in affidavit in support of the application under Section 12(2) CPC i.e is para-3 which reveals that the two addresses of appellant which were available, service was effected at one address which is an old one.

First of all it is the duty of the guarantor and/or borrower to update the addresses in their official record maintained by the bank and they have not updated any such addresses. Even otherwise the service was effected not only by an ordinary summons/notices but also by way of publication. The banking law provides that by way of any one mode if the service is effected, it is sufficient and it is immaterial if the service through any other mode is not effected personally upon the guarantor/ borrower.

We, therefore, by considering the ground raised in the application under Section 12(2) CPC reach to a conclusion that its restoration would not serve any purpose as there are no legitimate grounds to challenge the judgment and decree in the frame of Section 12(2) CPC. As such appeal merits no consideration and is accordingly dismissed along with listed application.

JUDGE

JUDGE

Ayaz Gul