

Order Sheet

IN THE HIGH COURT OF SINDH KARACHI

Suit No. B – 49 of 2007

Date	Order with Signature of Judge
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For evidence

28.09.2023

None present for Plaintiff

Mr.Khurram Ashfaq, Advocate for Defendant No.1

Ms.Noreen Saeed, Advocate for Defendant No.2

None present on behalf of Plaintiff. No intimation is received.

This matter was instituted on 18.09.2007. Suit No.B-49/2007 was progressing together with Suit No.B-54/2007 until the Leave to Defend Applications filed on behalf of Defendant Nos.1 and 2 were allowed by this Court on 20.02.2020. Following the Order of 20.02.2020, the two suits were de-tagged. Issues were settled in Suit No.B-49/2007 on 23.10.2020, and the matter was fixed for evidence on 20.04.2023 and 19.09.2023, but on both dates, none was present for Plaintiff. On 20.04.2023, a Court Motion Notice was issued to the Plaintiff through the Bailiff for 19.05.2023, but when the matter was called, no Bailiff's Report was available, and the matter was discharged as no one was present. The Office re-listed the Banking Suit for evidence on 19.09.2023 when, again, no one appeared on behalf of the Plaintiff. Accordingly, the Court, once again, issued a Court Motion Notice to Plaintiff by Bailiff and on his Counsel through electronic modes (Whatsapp and email) for 28.09.2023 at 1:00 p.m. Bailiff's Report dated 27.09.2023 reveals that there was no office of Plaintiff at the given address, and the office of Counsel for Plaintiff had shifted.

On perusal of the record, it appears that on 03.03.2016, 16.04.2019, 07.05.2019, 01.10.2019, 18.12.2019, 24.01.2020, 20.02.2020, 06.08.2020, 23.10.2020, and before this Bench on 20.04.2023, 19.09.2023, and today (28.09.2023 at 1:00 p.m.) none has entered appearance on behalf of Plaintiff and no intimation has been received. The record also reveals that the Plaintiff's lawyer, Mr. Salim Thepdawala, Advocate withdrew his Vakalatnama vide Court's Order dated 22.12.2015 and 03.03.2016. The record shows twelve continuous dates of hearing when none has appeared on behalf of Plaintiff, and Plaintiff engaged no Counsel on its behalf to prosecute this banking suit. Even though Plaintiff and his Counsel has not attended a single hearing in the last eight years, this Banking Suit has managed to survive.

The Office has flagged a Statement dated 08.08.2023 filed by the Advocate for the Chartered Accountant Firm appointed by this Court wherein he has claimed that despite efforts of the Chartered Accountants to establish communication and seek cooperation from both Plaintiff and Defendant, no response or cooperation has been received.

The constant absence of Plaintiff and his Counsel on numerous dates of hearing is apparent from the face of the record. The record also demonstrates that although Defendants have turned up in Court but none have appeared on behalf of Plaintiff for the last several years and further that neither Plaintiff has appeared in person through a representative nor engaged any Counsel to prosecute with the banking suit. Based on the reported Judgments of Moon Enterprises v. Sui Northern Gas Pipelines Limited, 2020 SCMR 300 and Ghulam Qadir v. Haji Muhammad Suleman, PLD 2003 Supreme Court 180, it does not appear that the Plaintiff is keen to proceed with this banking case against Standard Chartered Bank (formerly Union Bank Limited), Karachi and Pakistan Agricultural Storage & Services Corporation (PASSCO), Lahore.

In view of the above, this Court is constrained to hereby dismiss Banking Suit No.B-49 OF 2007 along with all pending application(s) for non-prosecution.

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