

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Const. Petition No.D-4187 of 2023

<i>Date</i>	<i>Order with signature of Judge</i>
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Priority

1. For orders on office objection.
2. For hearing of Misc. No.19280/2023 (Stay)
3. For hearing of main case.

19.01.2024:

M/s. Asim Iqbal & Farmanullah, advocates for the
petitioner.
Mr. Khaleeq Ahmed, DAG.

Through instant petition, the petitioner has impugned the order dated 17.01.2023 passed by the Family Judge, Karachi East in Execution Application No.12/2015 (Family Suit No.2995 of 2012), whereby, according to learned counsel for the petitioner, without assigning any valid reason and inspect of the fact that the petitioner, who stood surety on behalf of respondent No.2/Judgment Debtor to the extent of an amount of Rs.250,000/- to be paid to the respondent No.1/Decree Holder in the aforesaid case, which amount has duly been paid to the respondent No.1/Decree Holder, whereafter, vide order dated 27.10.2022, order of blocking the CNIC of the petitioner was recalled and NADRA Authorities were directed to immediately unblock the CNIC of petitioner. According to learned counsel for the petitioner, inspite of the aforesaid facts, the learned Family Court has once again directed for blocking of CNIC of petitioner. It has been contended by the learned counsel for petitioner that there is no provision under the Civil Procedure Code, which authorizes the Family Court to issue such direction of blocking of CNIC, more, particularly, once the purpose of furnishing the surety is served the surety cannot be held liable to any act of omission on the part of the parties except to the terms of surety. It has been prayed that the impugned order is violative of principal of Natural justice and amounts to snatch the fundamental right of the petitioner to block the valid CNIC.

Notices were issued, pursuant to which no comments have been filed on behalf of the private respondent, whereas, comments have been filed by the Family Judge, which are found not convincing. It appears that the petitioner stood surety to ensure appearance of the respondent No.2/J.D. in Court, however, on account of his absconsion the surety amount of the petitioner was forfeited, whereafter, such amount has reportedly been paid to the respondent No.1/D.H. From perusal of the terms of surety furnished by the petitioner, it appears that petitioner was only liable to amount of surety and in case of his failure to produce the respondent No.2/J.D., who was under civil prison, we are of the opinion that surety cannot be held liable on account of omission of the respondent No.2/J.D. in the instant case and only responsible to the terms of surety.

Accordingly, under the facts and circumstances of the case, the order passed by the Family Judge, Karachi East, with regard to blocking of CNIC of the petitioner for further compliance is unwarranted, which is hereby set-aside.

Petition stands disposed of in the above terms.

Nadeem

JUDGE

CHIEF JUSTICE