

IN THE HIGH COURT OF SINDH AT KARACHI
C.P.No.D-663 OF 2024

***Syed Wajahat Hussain Zaidi.....v/s.....Banking Court No.5
& others***

Date Order with Signature of Judge

PRESENT:

***MR. JUSTICE AQEEL AHMED ABBASI, CJ
MR. JUSTICE ABDUL MOBEEN LAKHO, J***

- 1.For hearing of Misc.No.3212/2024
- 2.For hearing of main case.

12.03.2024.

Mr.Sami Ahsan, Advocate for the Petitioner.
Mr.Sheikh M. Danial, Advocate for the Respondent No.2
Mr.Khaleeq Ahmed, D.A.G.

ORDER

On 12.02.2024, while issuing notices to the respondents, following order was passed:-

"Dated: 12th February 2024

Mr. Sami Ahsan, Advocate for Petitioner.

1. Urgency granted.
2. Exemption granted subject to all just exceptions.
- 3&4. Through instant Constitutional Petition, the pensioner has impugned the Order dated 15.01.2024 passed by the learned Banking Court No.V, Karachi Execution No.63/2019 [Suit No.266/2013], whereby, according to learned counsel for the pensioner, CNIC of the petitioner has been blocked in violation of law, whereas, after the remand of the matter by the Hon'ble Supreme Court of Pakistan the Banking Court is required to recalculate the costs of fund and markup, such exercise has not yet been undertaken. Learned counsel for the petitioner submits that petitioner will appear before the Banking Court on each and every date of hearing and will seek further remedy, therefore, blocking of CNIC of the petitioner is illegal and without lawful authority and the petitioner is facing serious hardship in this regard. In support of his contention learned counsel for the petitioner has placed reliance on the case of SYED HASAN UDDIN v. FEDERATION OF PAKISTAN AND 12 OTHERS [2018 MLD 1748]. Learned counsel for the petitioner has filed a statement alongwith annexure, which is taken on record.

Let pre-admission notice be issued to the respondents as well as to the Deputy Attorney General to be served through first three modes for 22.02.2024, when comments/reply if any, shall be filed with advance copy to the learned counsel for petitioner. In the meanwhile, subject to petitioner's

attending Banking Court on each and every date of hearing in the aforesaid case, the impugned order date 15.01.2024 shall remain suspended till the next date.

Mr.Khaleeq Ahmed, Deputy Attorney General, present in Court some other cases, waives notice of instant petition on behalf of the respondent No.3, claims its copy and requests for time to seek instructions and file comments/reply. Learned counsel for the petitioner undertakes to supply copy of the same during course of the day.”

2. Today, learned counsel for the petitioner submits that the petitioner will be satisfied if the order passed by the learned Banking Court, directing the NADRA Authorities to block the CNIC of the petitioner, may be set-aside, whereas, the petitioner undertakes to attend the Court regularly and proceed with the matter in accordance with law. It has been further prayed that the learned Banking Court may pass an appropriate order while modifying the judgment and decree keeping in view the Order passed by Hon’ble Supreme Court of Pakistan in the instant case at an early date after hearing the learned counsel for the parties.

3. Learned counsel for the Respondent No.2 has filed a statement along with some Annexures, which is taken on record, copy of the same has been supplied to learned counsel for the petitioner. Learned counsel for the Respondent No.2 submits that the petitioner has admitted before the learned Banking Court for the deposit of agreed defaulted amount, therefore, the conduct of the petitioner, not attending the Court, and not abiding by such undertaking given in Court warranted penal consequences, however, through impugned order, directions for blocking of the CNIC of petitioner have been issued.

4. We have once again enquired from the learned counsel for the respondent Bank and the learned D.A.G. to refer to any provision of law, according to which in a pending execution, which according to learned counsel for the petitioner has not attained finality and needs to be modified pursuant to judgment passed by the Hon’ble Supreme Court of Pakistan in the instant

matter, for the purposes of securing the attendance of the judgment debtor and for recovery of the amount to satisfy the decree, the Banking Court/Executing Court has the authority to block the CNIC of the Judgment Debtor (J.D), however, no reasonable explanation to this effect has been given by the learned counsel for the parties.

5. Accordingly, instant petition along with listed application is disposed of with the directions to the petitioner to attend the Court regularly and proceed with the matter, which may be decided at an early date, after hearing the parties in accordance with law. However, in the meanwhile, the impugned order passed by the Banking Court blocking the CNIC of the petitioner shall remain suspended.

6. Petition stands disposed of in the above terms along with listed application.

Chief Justice

Judge

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