

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C.P. Nos.D-57 & 58 of 2024

Date

Order with signature of Judge

C.P. NO.D-57 OF 2024

FRESH CASE:

1. For order on office objection.
2. For order on CMA No.262/2024 (Exemption).
3. For order on CMA No.263/2024 (Stay).
4. For hearing of main case.

C.P. NO.D-58 OF 2024

FRESH CASE:

1. For order on office objection.
2. For order on CMA No.640/2024 (Exemption).
3. For order on CMA No.641/2024 (Stay).
4. For hearing of main case.

Dated; 23rd January 2024

Mr. Ali T. Ebrahim alongwith Ms. Nazia Hanjrah,
Advocate for Petitioners in both petitions.

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1. Learned counsel for the petitioner undertakes to comply with office objection before the next date of hearing.

2. Exemption granted subject to all just exceptions.

3&4. Through instant Constitutional Petitions, the petitioners have challenged the vires of Section 15 of the Financial Institutions (Recovery of Finances) Ordinance, 2001, for being ultra vires of Articles 2A, 4, 10A, 24 and 25 of the Constitution of Pakistan, 1973, as it has denied the right of fair trial, whereas, the authority has been given to the bank(s) to determine the liability and default without having recourse to the judicial process. According to learned counsel for the petitioner, in case of petitioners, respondent Bank has otherwise resorted to invoke the provisions of Section 15, ibid, however, without adopting the legal course or providing any opportunity of being heard to the petitioners to explain their position,

as neither any notice has been issued by the auditor, nor the claim with regard to the outstanding liability has been confronted with to the petitioners, or determined by some independent forum, whereas, the respondents are proceeding against the petitioners for recovery of such disputed liability by adopting coercive measures, which may include the sale of mortgaged property. Per learned counsel, petitioners have written letters to the respondent No.2 bank to disclose the details, however, the needful has not been done.

Let pre-admission notice be issued to the respondents as well as to the Additional Attorney General of Pakistan in terms of Order XXVII-A, C.P.C. to be served through first three modes, for **06.02.2024**, when comments/reply, if any, shall be filed with advance copy to the learned counsel for petitioners. In the meanwhile, petitioners may submit response to the final demand notices dated 02.12.2023 issued on behalf of the respondent No.2 so far. However, till the next date, respondents may not finalize the proceedings, including sale of mortgaged property, if any.

CHIEF JUSTICE

JUDGE

Farhan/PS
