

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

First Appeal No.18 of 2024

Amir Ali
Versus
Muhammad Mustaqeem & another

Date	Order with signature of Judge
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For orders as to non-prosecution of appeal
(As office objections No.1, 2, 5, 20, 23 and 24 not complied with since
04.01.2024)

Dated: 14.02.2024

Mr. Allah Ditta Shakir for appellant.

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This appeal impugns judgment and decree and two orders. The judgment was passed in Summary Suit No.63 of 2017 on 18.02.2021 whereby the suit was decreed. Against such judgment and decree no appeal was preferred. This judgment followed by an order dated 06.05.2022 of the Executing Court in Execution No.4 of 2021 whereby an application under order XXI Rule 29 CPC filed by the appellant was dismissed. This order was then followed by another order of 23.11.2023 which is in relation to the objections to the execution application filed by the appellant/judgment debtor/objector. The operative part of this order is reproduced as under:-

“On perusal of the record it appears that JD failed to file written statement within a period of about ten months, hence suit was decreed exparte. Applications filed by the JD for reopening his side and allowing him to file written statement as well as staying the proceeding of execution application have already been dismissed, therefore, this Court has no alternate but to allow the instant execution application. Acquittal in criminal case lodged for the same cheque as well as pendency of civil suit for cancellation of such cheque are no grounds to withheld the instant execution application. Accordingly, the instant execution application is hereby allowed with no order as to cost. The plaintiff/DH is directed to file schedule of moveable or

immovable properties of defendant/JD to be attached for recovery of decretal amount from her.”

We have heard learned counsel and perused record.

Insofar as judgment dated 18.02.2021 and later order of 06.05.2022 are concerned, this appeal being filed on 04.01.2024 is hopelessly barred by time. Insofar as the last order that was passed on 23.11.2023 is concerned, certified copy of that was obtained on 30.11.2023 and the appeal was filed on 04.01.2024. Learned counsel has not provided any reasonable explanation in the application for condonation of delay filed along with the main appeal; it only discusses an issue that pertains to lodging of FIR No.359/2017. Appellant claimed to have filed leave to defend application, which was granted, yet did not contest the suit which eventually ended up in a decree, referred above. No valid reasons and arguments have been advanced as to why the execution could not be allowed for the recovery of amount in pursuance of the decree passed and impugned in this appeal

In view of above no interference in the impugned judgment and orders is required. Instant First Appeal, along with pending applications, is accordingly dismissed in limine.

Judge

Judge