

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

First Appeal No.112 of 2024

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| Date | Order with signature of the Judge |
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Fresh Case

1. For Order on C.M.A No.1980 of 2024 (U/A)
2. For Order on C.M.A No.1981 of 2024 (Exemption)
3. For Hearing on Main case
6. For Order on C.M.A No.1982 of 2023 (Stay Appl.)

20.9.2024

Mr.Shujaat Ali Khan, Advocate for the appellants

Through an instant appeal under Section 96 of the Code of Civil Procedure, 1908 ("C.P.C."), the appellant has assailed the legality of the Order dated 15.7.2024, passed by the learned Additional District Judge-XI, Karachi South ("**Executing Court**") in Execution Application No. 10 of 2023, an offshoot of Summary Suit No. 146 of 2022 (Re: Mass Forwarding & Trading Co. vs. Waqar Mahmood), whereby the execution application was allowed.

The learned counsel for the appellants/J.D contended that the learned Executing Court passed the exparte judgment and decree without the appellants' knowledge, and they came to know about the ex parte judgment and decree on 21.12.2023. He further contended that when the appellants became aware of the exparte judgment and decree, they moved an application under Section 12(2) C.P.C. as well as an application under Order IX Rule 13 C.P.C., but both were dismissed by the learned Executing Court without considering the merits. He further contended that the learned Executing Court committed an illegality with material irregularity while passing the impugned Order, and therefore, the same may be set aside.

We have heard the arguments advanced by the learned counsel for the appellants and meticulously perused the material available on record. It is a matter of record that the appellants had moved an application under Section 12(2) C.P.C and an application under Order IX Rule 13 C.P.C for setting aside the exparte Judgment and Decree. Both applications were dismissed on 15.5.2024, and the appellants failed to challenge these Orders, which have since attained finality. Moreover, the appellants still had a remedy under the law to file objections against the Execution Application, but they failed to do so. This inaction on the part of the appellants indicates a lack of diligence in pursuing their legal remedies, thereby allowing the exparte Judgment and Decree to stand unchallenged and enforceable. The learned counsel for the

appellants was unable to highlight any illegality or jurisdictional error in the impugned Order that would necessitate interference by this Court.

For the foregoing reasons, the instant appeal is devoid of merits and consequently **dismissed in limine** along with miscellaneous applications.

JUDGE

JUDGE