

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

High Court Appeal No.329 of 2024

Date	Order with signature of the Judge
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Fresh Case

1. For Orders on C.M.A No.2037/2024 (U/A)
2. For Orders on office objection a/w reply as at "A"
3. For Orders on C.M.A No.2038/2024 (Exemption)
4. For hearing of main case
5. For Orders on C.M.A No.2039/2024 (Stay)

26.9.2024

Mr.Salahuddin Ahmed, Advocate for the appellants
M/S Mayhar Kazi and Zahid Ali Sahito, Advocates for the respondents

Through this High Court Appeal, the appellants have impugned the Order dated 16.09.2024, rendered by a learned Single Judge of this Court in Execution Application No.22 of 2022, whereby the appellants' request for an extension of time to file objections against an execution application was declined, and the Nazir was directed to take steps for handing over possession of the suit property to the Decree Holder within ten days from the date of the Order.

During arguments, learned counsel for the appellants does not oppose the merits of the case. However, he submits that CPLA No. 712-K of 2024 is before the Supreme Court of Pakistan against the judgments and decrees passed in Suit No. 1127/1997, Suit No. 744 of 1998, H.C.A No. 98/2022, and H.C.A No. 99/2022, but the same could not be fixed for hearing. Meanwhile, the learned Executing Court, without granting time to the appellants to file their objections on an Execution Application, passed the impugned Order. Ultimately, he submits that this Honourable Court may be pleased to grant the appellants two months to vacate the suit property.

Mr. Mayhar Kazi, Advocate, appeared in response to the notice issued under Order XLIII Rule 3 C.P.C. and filed Vakalatnama on behalf of the respondents, which is taken on record. He argued that despite ample opportunities provided by the learned Executing Court, the appellants did not file objections to the execution application. He further contended that the appellants had preferred appeals against the judgment and decree of the learned Single Judge, which were dismissed. He also drew attention to the relief awarded for the decree of possession and damages to the tune of Rs.

2,500,000/- and submitted that the appellants are illegally enjoying possession of the suit property.

We have scrupulously considered the submissions advanced by the learned counsel for the appellants and respondents and have meticulously examined the impugned Order rendered by the learned Single Judge. It is a matter of record that the decree pertains to 29.01.2022, and the appeals preferred against it were also dismissed by the Division Bench of this Court vide judgment dated 28.06.2024, against which CPLA was preferred, and the same was not fixed for hearing. So far as the contention of learned counsel for the appellants regarding a grant of two months for vacating the suit property is concerned, it would be appropriate that, if the appellants so desire, to seek two months to vacate the suit property by applying to the learned Executing Court, wherein the proceedings for execution of the decree are pending. It is evident from the arguments of the learned counsel for the parties that ample opportunity was already afforded to the appellants, yet they failed to file objections to the execution application. We do not find any infirmity or illegality in the impugned Order. The Order stands well-reasoned and in accordance with the law and, therefore, does not warrant any interference by this Court.

For the foregoing reasons, prima facie, we do not discern any error or illegality in the impugned Order; therefore, the instant appeal is **dismissed** along with miscellaneous applications.

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