

ORDER SHEET
THE HIGH COURT OF SINDH KARACHI

Suit No. B-04 of 2025

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For hearing of CMA No.1178/2025
2. For hearing of CMA No.2268/2025

19.08.2025

Mr. Rafiq Ahmed Kalwar, Advocate for the Plaintiff
Syed Aijaz Hussain Shirazi, Advocate for the Defendant.

Learned counsel appearing on behalf the Plaintiff submits that the Plaintiff had availed finance facility to the tune of Rs.180,000,000/- from the Defendant No.1 Bank on markup basis and in view of such finance facility the Plaintiff mortgage following properties in favour of the Defendant No.1 Bank.

- i. Bungalow No.B/36, Qasimabad Housing Scheme No.1, HAD Hyderabad, admeasuring 240 Sq. Yards.
- ii. Bungalow constructed over plot No.50-B, admeasuring 648.70 Sq. Yds, situated at DOHS, Cantonment Survey No.142/50-B, Cantonment Area, Hyderabad.
- iii. Bungalow No.39, measuring 500 Sq. Yds, double story ground plus one alongwith basement floor, situated at Khayabaan-e-Saadi, Phase-VII, DHA, Karachi.

iv.

The Plaintiff No.2 acting as a guarantor also mortgaged the following properties in favour of the Bank relates to the same finance facility:

- i. Pent House bearing No, 701-A, 7th Floor, Shams Tower, on Plot of Land bearing No. R.S. No. 158 /3B & 158/5B, Deh Jamshoro, Tappa and Taluka Qasimabad, District Hyderabad, Sindh, admeasuring 4337.25 Sq. Feet.
- ii. Pent House bearing No. 701-B, 7th Floor, Shams Tower, on Plot of Land bearing No. R.S. No. 158 /3B & 158/5B, Deh Jamshoro, Tappa and Taluka Qasimabad, District Hyderabad, Sindh, admeasuring 4337.25 sq. feet.

- iii. Pent House bearing No.701-C, 7th Floor, Shams Tower, on Plot of Land bearing No. R.S No.158/3B & 158/5B, Deh Jamshoro, Tappa and Taluka Qasimabad, District Hyderabad, Sindh, admeasuring 4337.25 Sq. Feet.
- iv. Pent House bearing No. 701-D, 7th Floor, Shams Tower, on Plot of Land bearing No. R.S. No. 158 /3B & 158/5B, Deh Jamshoro, Tappa and Taluka Qasimabad, District Hyderabad, Sindh, admeasuring 4337.25 sq. feet.

The Plaintiff was aggrieved by the Notice dated 11.01.2025 (Available at Page 253 of the Court File) for an auction of the properties, issued by the Defendant No.1 Bank for mortgage properties.

Learned counsel for the Plaintiff submits that at such time the Bank was not following due process under the law whilst initiating auction proceedings regarding mortgage properties.

However, learned counsel for the Defendant states that after such notice for auction, no bid was received and that in any event that initially intended auction proceeding have now become void, since there was no bidder for the properties.

Learned counsel for the Plaintiff has referred to Rule 3 (iii)(c)(vi) of the Financial Institutions (Recovery of Finances) Rules 2018 which were promulgated through powers conferred vide Section 25 of the Financial Institutions (Recovery of Finances) Ordinance 2001. He submits that since no bid was received, therefore as per law, the said auction proceedings stand cancelled. And if the Bank / Defendant is desirous to still auction the mortgage property in future, the same would have to be done by initiating a new process entirely, in accordance with law. Learned counsel for the Defendant states that in such event he does not dispute that the Defendant Bank will have to initiate proceedings *de novo*, as that is what the law also mandates.

I have heard learned counsel for the parties with their able assistance and perused the record, there is no cavil to the proposition put forth. Where no bid has been received for mortgaged property, the law provides that the mortgagor (i.e. Defendant in the instant matter) must re-initiate the entire auction proceedings.¹

Accordingly, it is hereby declared that the previously proposed auction proceedings as advertised by the Defendant No.1 in Auction Notice dated 11.01.2025 (published in the Daily Jang Newspaper) now stand abated / cancelled, as no bid was received. It is further held that if the Defendant Bank wishes to pursue auction of the mortgaged properties, they shall have to start auction proceedings afresh, whilst following due process in accordance with applicable law. This Suit stands decreed / disposed accordingly on the above-stated terms.

JUDGE

Tariq

¹ Reference can be made to Section 15 of the 2001 Ordinance; Rule 3(c)(vi) of the 2018 Rules; Rules 66, 67 & 69 of Order 21 Code of Civil Procedure 1908.