

Judgment Sheet
IN THE HIGH COURT OF SINDH, KARACHI

Present:

Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Muhammad Hassan (Akbar)

I.A No.123 of 2025

(Mst. Shama Karim Daudpota vs. Faysal Bank Limited & others)

Fresh case

1. For order on CMA No.1245/2025
2. For order on office objection a/w reply
3. For order on CMA No.1246/2025
4. For hearing of main case
5. For order on CMA No.1247/2025

15.09.2025

Mr. Muhammad Ibrahim Sahito, advocate for petitioner

JUDGMENT

Muhammad Iqbal Kalhoro, J: Respondent No.1 (Faysal Bank Limited) filed a suit against the appellant for recovery of outstanding amount of Rs.14,780,020.77 along with cost of funds. The suit was decided *ex-parte* in the sum of Rs.12,662,534.72 vide judgment and decree dated 05.09.2009 and 03.11.2009. In pursuance, particulars of judgment debtor were filed by the decree holder for recovery of decretal amount and by attachment and sale of mortgaged property bearing *Plot No.B-87, with double storied bungalow measuring 308 sq. yds. Situated in Block-13-B/2, Gulshan-e-Iqbal, KDA Scheme No.24, Karachi.* The property was put to auction but no bid was received.

2. The record further shows that during execution proceedings, appellant filed applications including an application u/s 12(2) CPC for setting aside aforesaid judgment and decree, the applications were dismissed for non-prosecution. Again the appellant filed these applications including an application u/s 12(2) CPC, u/o XXI Rule 58 CPC and application u/o 1 Rule 10 CPC stating that he was the actual owner of property and by fraud his property was mortgaged by the judgment debtor. These applications too were dismissed in non-prosecution.

3. Again after some time, the appellant filed similar applications with addition of an application u/o XXI Rule 90 CPC. These applications were dismissed on merit. The order was challenged by the appellant before this Court in Appeal No.23/2023, the appeal was also dismissed by this Court on 13.03.2023. The order by this Court has been assailed by the appellant before the Supreme Court in CPLA No.687-K/2023, which is pending. Thereafter, in the execution proceedings, the order to break open the lock of mortgaged property was passed against which the appellant filed an application for recalling the said order on the ground that his CPLA is

pending before the Supreme Court. This application has been dismissed by the Executing Court, hence, this appeal.

4. We have heard learned counsel for the appellant. His main ground is that the grounds taken by him in the application have not been considered by the Executing Court and therefore the order is not sustainable in law and shall be set aside. We are, however, not persuaded by his line of arguments. It appears that the suit was decreed in 2009 and after even lapse of 16 years, the Banking Court has not been able to execute the decree mainly because the appellant has been found in possession of the mortgage property, which he is not allowing to be put into auction. He has been filing various applications before the Executing Court with the sole object of delaying the execution of the decree, which is evident from the fact that on a number of occasions, he filed 12(2) CPC application, did not pursue them, and when the same were dismissed in non-prosecution, again after some time, he filed the same applications and let them dismissed in non-prosecution only to file the same application again. He was not allowing the Banking Court even to decide his applications on merits for a number of years. This shows that he never wanted a decision on merits and his object was only to delay the matter. Ultimately his 12(2) CPC application was dismissed on merits, and in the appeal, he again failed to persuade this Court. Now he is before the Supreme Court but no stay order has been granted. It is the execution, which needs to be implemented and the appellant seemingly has put up various excuses to ensure that the decree is not implemented and execution is not carried out.

5. We have seen the impugned order, it is based on proper reasoning and does not call for any interference by this Court to justify issuance of notice. Therefore, we do not see any merits in this appeal and dismiss it accordingly along with listed applications.

This appeal is disposed of in above terms along with pending applications.

JUDGE

JUDGE