

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
I. A. No.42 of 2020 & C.P.No.926 of 2025

Present:

Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Syed Fiaz-ul-Hassan Shah

26.11.2025

M/s Irfanullah Khan & Lubna Aman, advocates for appellant
Mr. Adil Channa, advocate for respondent in Ist Appeal
No.42/2020 & for petitioner in C.P.No.S-926/2025.

ORDER

MUHAMMAD IQBAL KALHORO, J:- This first appeal has been filed against impugned judgment dated 28.05.2020 passed by learned Banking Court-I, Karachi, whereby plaint has been returned u/o 7 rule 10 CPC to be filed before the relevant court.

2. During hearing of this appeal, it was observed that actual anxiety of the appellant was that instead of plaint, the entire proceedings should have been transferred as the Banking suit was pending since 2002 and entire evidence had already been recorded, hence return of the plaint after 18 years was prejudicial to the rights of the appellant to expeditious trial.

3. In view of such ground, a particular question was framed by this court to the effect that what is the scheme of law when plaint is returned to be filed before relevant court, whether it should be treated as a fresh institution or the proceedings would start from the same stage when the order for return of the plaint is passed.

4. Learned counsel for appellant has relied upon 1993 SCMR 1996 and 2025 PLC 1552 in support of proposition that return of the plaint does not mean a fresh institution. Whereas learned counsel for respondent has relied upon judgments in PLD 1981 Kar 277 and PLD 2013 Sindh 80 holding that filing of the plaint in the relevant court after its return by the earlier court means a fresh institution.

5. The impugned order was passed on 28.05.2020 and in compliance thereof, reportedly the plaint was presented by the appellant in the relevant court, where issues have been framed and the

matter is fixed for evidence. In the said suit, respondent had filed an application u/o VII rule 11 CPC on the ground that the suit was barred by time. The application was dismissed, so also the revision application filed against the order. Thereafter, the respondent has filed C.P.No.S-926/2025 which is also tagged with the present appeal.

6. After hearing both the parties, we have formed a view that return of the plaint does not mean transfer of entire proceedings. The plaint submitted in compliance of an order U/o 7 rule 10 CPC is a fresh institution, as held by the superior courts time and again. However, at the same time, it may be said that because of pendency of the aforesaid petition, the suit is not proceeding and despite lapse of 23 years, the cause/lis has still not been adjudicated, as expected. We, therefore, with consent of the parties, dispose of both the cases in hand with directions that the trial court shall proceed with the suit on merits and conclude it in six months without fail. Any question raised by the parties in the suit should be decided in final judgment.

The Ist appeal and petition stand disposed of in the above terms alongwith pending applications.

JUDGE

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