

ORDER SHEET

HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Civil Revision Application No.189 of 2024

Applicant : Muhammad Adeel s/o Muhammad Iqbal
Through Mr.Hakim Ali Siddiqui, Advocate

Respondent : Muhammad Tahir s/o Matloob Hussain
Through Mr.Muhammad Asif Shaikh, Advocate

Date of hearing : **21.05.2026**

Date of decision : **21.05.2026**

ORDER

JAWAD AKBAR SARWANA, J.: Applicant/judgment debtor Muhammad Adeel is aggrieved by the Order dated 22.04.2024, passed by the VIII-Additional District Judge, Hyderabad in Execution Application No.31/2023, arising out of Summary Suit No.12/2018. Counsel of the applicant/judgment-debtor contends that apparently on 11.01.2024, the Advocate for the respondent/decree holder submitted a Statement for issuance of warrants of arrest and blocking of CNIC of the applicant/judgment debtor, whereafter learned Executing Court on the very first date of hearing, without notice to the applicant/judgment-debtor, issued Bailable Warrants against the applicant/judgment debtor as well as directed the concerned NADRA authorities to block his CNIC. Counsel for the respondent/decree holder contends that during execution proceedings, the Mukhtiarkar and City Survey Officer, Taluka City, Hyderabad had submitted a report, wherein it was mentioned that the applicant/judgment debtor had co-ownership of upto 80% in a property. Opposing Counsel argued that this demonstrates that the applicant/judgment-debtor has been avoiding his payment obligation in spite of having resources to satisfy the decree. Yet, as a point of clarification, Counsel for the respondent/decree holder candidly conceded that the Mukhtiarkar's report dated 05.01.2024 and co-signed by the City Surveyor, Ward "A", City Hyderabad on 08.01.2024, was brought on record of the Executing Court on the same date as the Order dated 11.01.2024. Thus, it is common ground that the Order dated 11.01.2024 was passed based on the mere Statement filed by the Counsel for the respondent/decree-holder on the same date, i.e. 11.01.2024, when he sought issuance of the warrant

of arrest of the applicant/judgment-debtor, etc., which arrest order was accordingly passed on the very same date as well as order to suspend the CNIC of the applicant/judgment-debtor – all without reasons. Yet the VIIIth Additional District Judge neither considered this aspect nor addressed the lacunae identified by the Counsel for the applicant/judgment-debtor in his application challenging the Order dated 11.01.2024, which application was dismissed on 22.04.2024, and is impugned in this civil revision.

2. Heard counsel for the parties. The orders concerning the arrest of the applicant/judgment debtor in a civil proceeding including inter alia one arising in summary proceeding under Order XXXVII C.P.C., is well discussed in the judgment dated 30.07.2025 of the division bench of the High Court of Sindh Bench at Sukkur in 1st Appeal No.D-32 of 2025, concerning a matter arising from proceedings under the Financial Institutions (Recovery of Finances) Ordinance, 2001. Per extracts of paragraph-5 of the said judgment, are reproduced herein below:

“ . . . It is a well-recognised legal proposition, and articulated in several reported and unreported judgments of our High Courts, that issuance of warrants in respect of decrees in civil cases is not a routine matter. The process of arrest and detention in civil matters is strictly regulated by various provisions of CPC, including, inter alia, Section 51 and Order 21 Rules 37 and 40, CPC.¹ Reliance may be placed on the

¹ “Section 51 CPC. Powers of Court to enforce execution. Subject to such conditions and limitations as may be prescribed, the Court may, on the application of the decree-holder, order execution of the decree:

- (a) by delivery of any property specifically decreed;
- (b) by attachment and sale or by sale without attachment of any property ;
- (c) by arrest and detention in prison ;
- (d) by appointing a receiver; or
- (e) in such other manner as the nature of the relief granted may require:

[Provided that, 4 [* * *] execution by detention in prison shall not be ordered unless, after giving the judgment-debtor an opportunity of showing cause why he should not be committed to prison, the Court, for reasons recorded in writing, is satisfied:

- (a) that the judgment-debtor, with the object or effect of obstructing or delaying the execution of the decree,___
 - (i) is likely to abscond or leave the local limits of the jurisdiction of the Court, or
 - (ii) has, after the institution of the suit in which the decree was passed, dishonestly transferred, concealed, or removed any part of his property, or committed any other act of bad faith in relation to his property ; or
- (b) that the judgment-debtor has, or has had since the date of the decree, the means to pay the amount of the decree or some substantial part thereof and refuses or neglects or has refused or neglected to pay the same, or

reported cases in the banking jurisdiction of Abdul Basit Zahid,² and Precision Engineering Ltd.,³ which is well-discussed and summarized in the unreported Division Bench Judgment dated 12.03.2024 in 1st Appeal No.25 of 2016, Zafar Hasan Khan and Others v. Habib Bank Limited authored by Justice Muhammad Shafi Siddiqui, as he then was a Judge of the Sindh High Court under the banking appellate

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- (b) that the decree is for a sum for which the judgment-debtor was bound in a fiduciary capacity to account.
 - (c)
 - (d) Explanation. In the calculation of the means of the judgment-debtor for the purposes of clause (b), there shall be left out of account any property which, by or under any law or custom having the force of law for the time being in force, is exempt from attachment in execution of the decree.”

Order 21. Arrest and Detention in Prison.

“Order 21 Rule 37. Discretionary power to permit judgment-debtor to show cause against detention in prison. (1) Notwithstanding anything in these rules, where an application is for the execution of a decree for the payment of money by the arrest and detention in prison of a judgment-debtor who is liable to be arrested in pursuance of the application, the Court [shall], instead of issuing a warrant for his arrest, issue a notice calling upon him to appear before the Court on a day to be specified in the notice and show cause why he should not be 1[detained in] prison:

[Provided that such notice shall not be necessary if the Court is satisfied, by affidavit, or otherwise, that, with the object or effect of delaying the execution of the decree, the judgment-debtor is likely to abscond or leave the local limits of the jurisdiction of the Court.]

(2) Where appearance is not made in obedience to the notice, the Court shall, if the decree-holder so requires, issue a warrant for the arrest of the judgment-debtor.”

“Order 21 Rule 40. Proceedings on appearance of judgment-debtor in obedience to notice or after arrest. (1) When a judgment-debtor appears before the Court in obedience to a notice issued under rule 37, or is brought before the Court after being arrested in execution of a decree for the payment of money, the Court shall proceed to hear the decree-holder and take all such evidence as may be produced by him in support of his application for execution, and shall then give the judgment-debtor an opportunity of showing cause why he should not be 2[detained in] prison.

(2) Pending the conclusion of the inquiry under sub-rule (1) the Court may, in its discretion, order the judgment-debtor to be detained in the custody of an officer of the Court or release him on his furnishing security to the satisfaction of the Court for his appearance when required.

(3) Upon the conclusion of the inquiry under sub-rule (1) the Court may, subject to the provisions of section 51 and to the other provisions of this Code, make an order for the detention of the judgment-debtor in prison and shall in that event cause him to be arrested if he is not already under arrest:

Provided that in order to give the judgment-debtor an opportunity of satisfying the decree, the Court may, before making the order of detention, leave the judgment-debtor in the custody of an officer of the Court for a specified period not exceeding fifteen days or release him on his furnishing security to the satisfaction of the Court for his appearance at the expiration of the specified period if the decree be not sooner satisfied.

(4) A judgment-debtor released under this rule may be re-arrested.

(5) When the Court does not make an order of detention under sub-rule (3), it shall disallow the application and, if the judgment-debtor is under arrest, direct his release.”

² PLD 2000 Karachi 322 [Abdul Basit Zahid v. Modarba Al-Tijarah through Chief Executive and 2 Others]

³ PLD 2000 Lahore 290 [Precision Engineering Ltd. and Others v. The Grey Leasing Limited]

jurisdiction of the FIO, 2001. Additionally, the principles to be adhered to and followed revolving around the provisions of Section 51 r/w Order 21 Rules 37 and 40 CPC are also articulated in the Single Bench Judgment of this Court at the Sukkur Bench, in the Mansoor Ali case (non-FIO, 2001 matter),⁴ by the Division and Single Benches of the Lahore High Court in the two reported cases of Aftab Saleem Choudhary,⁵ and Dr. Rauf Ahmad Azhar,⁶ respectively, and by the Peshawar High Court, most recently in the 2025 reported case of Tariq Ali.⁷ We reproduce the consequences of the two aforementioned provisions of the civil procedure code, that is, Section 51 and Order 21 Rule 37 CPC, concerning execution of a decree through arrest and detention of the judgment-debtor in civil matters, as discussed in paragraph 7 on page 351 of the latest reported case law, viz. the Tariq Ali case:

“The *ibid* provision has mandated the learned Executing Court to enforce the execution of decrees. Besides, other modes, the detention of the JD in Civil Prison has also been provided by the *ibid* provision of the law. When the JD, refuses or neglects to pay the decretal amount; then, he can be sent to the Prison, however, before committing him to the Prison, the learned Executing Court has to provide him an opportunity of showing cause qua his committing to Prison, and upon his satisfaction that the JD has the means to pay the amount of decree or some substantial part thereof and; refuses or neglects or has refused or neglected to pay the same, then, he could be sent to Civil Prison and; indeed, in such a case, the learned Executing Court is under legal obligation to provide justiciable reasons thereof. Both the *ibid* provisions are to be applied in conjunction with one another. When the JD is to be committed to Civil Prison qua enforcement of a money decree either, he has to be issued a show cause notice, as to why he should not be sent to Civil Prison or the same has to be dispensed with, being so contemplated by the *ibid* provision, if the Court is satisfied by an affidavit, or otherwise, that, with the object/purpose of delaying the execution of the decree or to frustrate the same, the JD is likely to abscond or leave the local limits of the jurisdiction of the Court.”

3. The upshot of the above discussion is that, clearly in the case in hand, and as conceded by the opposing Counsel, an order for the arrest

⁴ 2016 CLC Note 82 [Mansoor Ali v. Haji Liaquat Ali and Another]

⁵ 2005 CLD 401 [Aftab Saleem Choudhary and Another v. Soneri Bank Ltd. and Attorneys]

⁶ 2007 CLD 964 [Dr. Rauf Ahmad Azhar v. the Banking Court No.II, Lahore and 6 Others]

⁷ 2025 CLC 348 [Tariq Ali v. Hilal Shah]

of the accused applicant/judgment-debtor was passed on the very first hearing date without giving him any notice and without hearing him. A perusal of the impugned Order dated 11.01.2024, as available in this civil revision, does not find that consideration or steps were followed by the Executing Court as those articulated in the above-discussed case laws concerning the arrest and detention of judgment-debtor in civil cases. During the course of arguments, Counsel for the respondent/decreed holder requested permission to file an application as per the proper procedure for the arrest and detention of the accused applicant-judgment-debtor, for fresh consideration of the Executing Court, conceding that the mere Statement filed by Counsel at the material time was neither sufficient nor within the contours of Order 21 CPC for the arrest and detention of the accused applicant/judgment-debtor. Counsel for the applicant/judgment-debtor submits that he will have “No Objection” if the respondent/decreed-holder files such an application in the executing Court.

4. Turning to the question regarding the blocking of the CNIC of the applicant/judgment debtor, it may be noted that in a recent Judgment dated 18.02.2026, passed by the Supreme Court, the apex Court observed as follows:

“5. The learned AAG, Sindh has drawn our attention to an amendment made in 2018 or thereabouts by the Peshawar High Court to the CPC as applicable in the KPK Province (in exercise of its rule making powers under Part X). There, in Order 21, the following rule 117 has been added:

“The modes of compelling the judgment debtor for his attendance or for completing the execution proceedings may include blockage of his Computerized National Identity Card.”

We would like to reserve our views on the constitutional or legal validity of such a provision for an appropriate case since it is not, as such, before us. However two points may nonetheless be made with reference thereto. It obviously applies only in KPK Province and not in Sindh from where the present proceedings arise. Secondly, the very fact that the Peshawar High Court felt impelled to include such an express power in the CPC shows that absent such a provision no such power could be implied into the discretion of the executing Court or regarded as otherwise available to it in any general provision relating to the execution of a decree.”

5. Even otherwise, in a Single Bench judgment dated 23.09.2025, passed by my learned brother (Justice Muhammad Hasan (Akber), in Execution No.25 of 2012, it was observed as follows:

“8. To justify the action impugned, counsel for Decree Holder then relied upon section 51 C.P.C. which pertains to arrest and detention of a Judgement Debtor under certain circumstances. Firstly, the Order dated 09.05.2025 was not passed under section 51 C.P.C.; secondly, no provision for blocking of CNIC of a Judgement Debtor is available under the said provision; and lastly, on the said provision, the principles are well settled in the cases of Zafar Hasan Khan², Abdul Basit Zahid³ and Precision Engineering Ltd.⁴ that even before issuance of a warrant under section 51 CPC., certain mandatory pre-requisites must be fulfilled, for even a warrant could not be issued routinely. At the time of passing of the Order dated 09.05.2025 neither any of those pre-conditions was pleaded; nor was issuance of warrant ordered. Reliance on section 51 C.P.C. was therefore, completely misplaced. Rather, in my humble view, blocking of CNIC carries with it much severe implications as compared to issuance of a warrant of arrest. In the expression of Mr. Justice Athar Minallah as Chief Justice of the Islamabad High Court in the case of Hafiz Manzoor⁵ it was observed that:

“.....suspension of a duly issued CNIC or cancellation thereof has a profound and grave consequence because it virtually brings the life of an affected person to a halt and the latter, by implication, is denied the exercise of fundamental rights guaranteed under the Constitution of the Islamic Republic of Pakistan, 1973 (hereinafter referred to as the 'Constitution'). Such a person loses the right of employment, access to his or her own bank accounts, the right to engage in trade, business or profession. Moreover, access to education, health, etc. is denied. The family members are also equally affected. In a nut shell, the right to life guaranteed under Article 9 is virtually taken away. This phenomenon of blocking or cancelling the CNICs of citizens by the Authority in a perfunctory and arbitrary manner has remained prevalent for a long time because similar grievances have been frequently agitated before this Court...”

6. This bench has not found any discussion of the above points concerning the issuance of a warrant of arrest and/or blocking of CNIC in the impugned Order dated 22.04.2024. The steps to be considered by the Executing Court under Section 51 and Order 21 Rules 37 and 40 CPC were not considered by the Executing Court prior to the issuance of warrants, and the arrest and taking into custody and detention of the

applicant/judgment-debtor was not in accordance with the procedure and protocol prescribed under the statute, viz., Civil Procedure Code (CPC). The blocking of the applicant/judgment-debtor's CNIC was also improper.

7. Given the above, the impugned order dated 22.04.2024 and Order dated 11.01.2024 (with this Court exercising its revisional jurisdiction) are set aside. The respondent/decreed-holder may move a fresh interlocutory application in the execution seeking the arrest and detention of the applicant/judgment-debtor, which will be decided afresh by the Executing Court, with reasons, on its own merits. None of the observations made by this bench in this Order shall be relied upon by either party or the Executing Court.

8. For removal of doubt, it is clarified that the blockage of the CNIC of the accused applicant/judgment-debtor and the arrest warrant pursuant to the Order dated 11.01.2024 are also set aside. The accused applicant/judgment-debtor stands released from arrest and detention unless he has been and/or is being detained in any other matter. Issue notice to the concerned Jail Superintendent.

9. As this is an old matter instituted as a summary suit in the year 2018, and almost eight (8) years have passed with the respondent/decreed-holder still awaiting the fruits of the decree, and execution has been pending for almost three years, the executing court is directed to decide the fate of the interlocutory application as proposed to be filed by the respondent/decreed-holder, if any, expeditiously, and within 90 days from the date of this Order. The respondent/judgment-debtor remains at liberty to trigger any of the several provisions under Order XXI C.P.C. to enforce the decree against the applicant/judgment-debtor.

10. The civil revision application stands allowed in the above terms.

JUDGE

AHSAN K. ABRO