

Order Sheet

**IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.**

1st Appeal No. 19 of 2022
1st Appeal No. 20 of 2022
M.A. No. 07 of 2018
M.A.No. 13 of 2023

Date	Order with Signature of Judge(s)
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25.05.2026

Mr. Safdar Hussain Leghari, Advocate holds brief for Mr. Muhammad Arshad S. Pathan, Advocate for appellant in 1st Appeal No.19/2022 and in M.A. No.07/2018 and for respondent in 1st Appeal No.20/2022 and M.A. No.13/2023.

M/s Barrister Jawad Ahmed Qureshi and Usama Yousif Parhiyar, Advocate respondent in 1st Appeal No.19/2022 and M.A. No.07/2018 and for appellant in 1st Appeal No.20/2022 and M.A. No.13/2023.

Mr. Wali Muhammad Jamari, Assistant A.G, Sindh.

On 13.4.2026, 11.05.2026 and 18.05.2026, the above two 1st Appeals and the two M.A.s' were part-heard, and kept for final arguments to be heard on 25.06.2026 at 09:00 a.m. However, the lead Counsel for the plaintiff, Muhammad Bux Mallah, who is appellant in 1st Appeal No.19/2022 and applicant in M.A. No.07/2018 aggrieved by the judgment dated 28.02.2022 and the leave to defend order dated 22.04.2018 passed by the learned 8th Additional District Judge, Hyderabad, in the Summary Suit No.25/2017 obtained General Adjournment except for the date by Court matters. Thus, when this matter was taken up today for final hearing (on its pre-fixed date and time), the lead Counsel was not available to assist the bench, and the matter was heard in his absence in the presence of his associate, who held his brief.

The entire thrust of the arguments of the Counsel for the defendant Qamaruddin-respondent in the above matters, who is also aggrieved by the aforesaid judgment and has filed 1st Appeal No.20/2022 and M.A. No.13/2018 against the execution order dated 17.03.2023 passed in Execution Application No.37/2022, is that the Promissory Note on demand was time-barred and that the legal notice demanding payment under the

said Promissory Note was not produced in evidence. Counsel relied on Article 73 of the Limitation Act, 1908, and the Division Bench Judgment of the Sindh High Court reported in National Bank of Pakistan v. Muhammad Rafiq Malik and 2 Others, PLD 1982 Karachi 135.

After hearing parties, I passed orders during the course of the day without having had the benefit of the final submission/rebuttal arguments of the lead Counsel. However, before signing the Order, and after carrying out some preliminary further research on my own in Chamber, I have come across paragraphs 5 to 7 of the unreported Judgment in RFA No.31378/2022 dated 16.03.2023 (Ghulam Nabi v. Kabir Khan), passed by a learned Single Judge of the Lahore High Court, wherein the judgment discusses the interplay between Article 63-A (concerning summary suits) and Article 73 of the Limitation Act, 1908. Additionally, I also came across paragraph 8 of the reported judgment of the Division Bench of the Lahore High Court in PICIC Ltd. v. Arif Noor and Another, 2009 CLD 1428, wherein the judgment discusses the issue of evidence relied upon as pleaded in the plaint to be read in the context of the second limb of the argument put by the Counsel for Qamaruddin. All these points remain unaddressed by Counsel and merit consideration for complete adjudication of the four cases yet to be decided by this bench.

In view of the above, all four matters cannot be decided without hearing Counsel in light of the above-mentioned Judgments and perhaps further arguments which may arise therefrom. Further, as I have yet to sign the Order announced in open Court, I am at liberty to modify such orders, which stand modified in the terms set out herein.

Therefore, the Office is directed to relist the four matters after the summer vacations and to give notice to all Counsel and parties prior to such further hearing before the concerned Bench as per the roster. For removal of doubt, this matter is not to be treated as part heard.

JUDGE

Tufail