

**ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI**

Presents:
Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Jawad Akbar Sarwana

Cr. Acctt.Appeal No.04 of 2011

28.10.2026

Mirza Sarfraz Ahmed, Advocate for appellants.
Mr. Adil Khan Abbasi, advocate for NBP.
M/s Syed Khurram Kamal & Saeeda Khursheed, Special Prosecutor NAB.

For order on Nazir Report dt.20.10.2026

ORDER

MUHAMMAD IQBAL KALHORO J:- This appeal was decided by the earlier Division Bench headed by one of us (Muhammad Iqbal Kalhoro, J) vide judgment dated 12.03.2026 in the terms among others directing the appellants to pay the fine amount to the tune of Rs.138.736 million considerably decretal amount as well as cost of funds as decided in the banking suit.

2. In the banking suit, the amount decreed against the appellants was only Rs.113.650 million. The costs of funds calculated by the bank till 27.10.2017 were to the tune of Rs.25.086 million at the time of filing of the execution application. This amount when included in the decretal amount would become Rs.138.736 million. This amount the counsel for the bank had requested to be included in the total amount to be paid by the appellants and gave no objections to disposal of the appeal by treating the sentence undergone by them as full and final sentence. Hence, the appellants were directed to pay the said amount till 20.09.2026 and in case of default to undergo two years' simple imprisonment.

3. The record reflects that appellants paid Rs.116.783 million to the Nazir in compliance, with the prayer to adjust remaining amount Rs.26,965,225/- million from the amount already lying with the Nazir in execution No.60 of 2008 filed by the Bank. He obliged and made over the total as ordered in the judgment.

4. The Nazir still found that an extra amount of Rs.5 million was available in the account of the appellant. Hence, he filed a report before this court seeking direction in respect of that extra amount that whether it should be released to the applicant or not. This report was generated by the Nazir when a statement was filed by the applicants requesting return of the said extra amount to him.

5. The respondent bank has objected to the report and the statement of applicants stating that in terms of Section 3 FIO 2001 the applicants are required to pay the costs of fund till realization of the decretal amount. The costs of funds which the applicants have paid in terms of judgment of this court are up to the year 2017 as calculated by the bank and submitted in the execution proceedings. Now, it is contended by the Bank's counsel that since the applicants have paid decretal amount on 18.09.2026 in compliance of judgment in this appeal the costs of fund should be calculated up to that stage, and applicants may be directed to pay the same as well.

6. After hearing both the parties, we conclude that as far as the claims and counter claims in respect of costs of funds between the parties up to the date of payment of decretal amount are concerned. It is the domain of the banking court to adjudicate. We cannot proceed to decide objections of the parties in this regard in a criminal NAB appeal. In fact, we had decided this appeal with the consent of the parties and had calculated the amount of decree plus costs of fund up to 2017 in the terms as reflected, inter-alia, in Para. 08 of the judgment.

7. The applicants paid the said amount to the Nazir by paying Pay-Orders up to 116 million with the request for adjustment of remaining amount from the amount already paid by them in the Court. Such request for adjustment was accepted accordingly and adjustment made. Resultantly, the Nazir has come in possession of entire amount decided by this court that applicants should pay to the Bank.

8. Hence, this amount viz. Rs.138.736 million shall be released to the bank immediately. The extra amount shall be kept by the Nazir. It shall be considered to have been deposited in the execution proceedings as per record.

Since, still there is a dispute between the parties over costs of funds. Both the parties will be at liberty to contend their case qua their entitlement or otherwise of the extra amount or any remaining liability before the banking court in execution proceedings.

9. The Banking Court would be at liberty to adjudicate the same issue independently. However, it shall adjust the amount of Rs.138.736 million in the final calculation. The Nazir report is accordingly disposed of. The counsel for applicants undertake that he will not withdraw the property documents filed by the banking court till decision of the execution application.

JUDGE

JUDGE

Hafiz