

ORDER SHEET

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
LARKANA**

Constitutional Petition No. D-886 of 2015
M/S UBL Versus Shirimati Pushpa Bai

Date of Hearing	ORDER WITH SIGNATURE OF JUDGE
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BEFORE:

*Mr. Justice Muhammad Saleem Jessar,
Mr. Justice Nisar Ahmed Bhanbhro,*

Petitioners: United Bank Ltd.& another,
Through Mr. Muhammad Hussain
Soomro Advocate.

Respondents: Shirimati Pushpa Bai
Mr. Liaquat Ali Shar, Additional Advocate
General.

Date of hearing : 09.09.2025.

Date of Decision : 09.09.2025.

ORDER

NISAR AHMED BHANBHRO, J.- Through this Constitutional Petition, the Petitioners M/S United Bank Limited have claimed following relief:

- a) To direct the Respondents No.2 and 3 to stop operation of order dated: 30-10-2014 in execution, order dt:18-05-2015, Judgment dated:07-12-2012, decree dated:10-12-2012, Judgment dated:02-10-2013 and Decree dated:02-10-2013, which are null and void and coram non judice.*
- b) Direct the Respondent No.01 not to claim time barred claim and approach to proper forum.*

2. Learned Counsel for the petitioners contended that the Respondent No 1 filed suit for the insurance claim of the sum assured against the life of her husband. He argued that Ordinary Civil Court was not competent to try the claims of policy holders. The issue involved in the instant *lis* pertained to the exclusive jurisdiction of Insurance Tribunal created under Insurance Ordinance 2000. He contended that civil Court was not competent

to adjudicate the matter. He contended that the impugned judgment and decree dated 07.12.2012 was bad under the law as Learned Trial Court lacked jurisdiction to entertain the insurance claim. In support of his contentions, learned Counsel placed reliance on the cases reported as *Sind Empls. Social Security Instn. v. Mumtaz Ali Taj* (**PLD 1975 Supreme Court 450**), *EFU General Insurance Ltd. v. Duty Free Shops Ltd.* (**2013 CLD 1313**), *Naseem Begum v. State Life Insurance Corporation of Pakistan* (**2014 SCMR 655**) and *Faqir Muhammad v. Khursheed Bibi* (**2024 SCMR 107**).

3. Learned Additional Advocate General contended that the judgment and decree passed by the learned trial Court were maintained by the Appellate Court and no revision application was preferred against the concurrent findings, the same thus became a closed and past transaction hence attained finality. He contended that the present petition was filed against the execution proceedings, wherein the issue of jurisdiction of Court cannot be raised, as original proceedings were not under challenge. He argued that the petition was misconceived and liable to be dismissed with costs.

4. Heard arguments. Perused material made available before us on record.

5. Scanning of record revealed that respondent Shrimati Pushpa Bai widow of Om Parkash Lajpal filed a suit for declaration and payment of an amount of Rs.250,000/- with a further profit @ 14% against the sum insured for the life of her deceased husband before the Court of 1st Senior Civil Judge, Shikarpur. It was averred that the late husband of the Respondent No 1 was account holder in UBL and Bank had introduced a policy under the name of “UBL Aap Kay Tahafuz Saaiban” to give accidental cover to its account holders. The Petitioners filed written statement, wherein they accepted the claim of Respondent No 1, however refused to make payment on the ground that the claim was made beyond the period of 90 days required under the policy, thus was timed barred. The suit was proceeded on merits, wherein the respondent No 1 examined herself and her witness Mahesh Kumar. The Petitioners examined one Siraj Ahmed, Manager, UBL, Shikarpur, Ajeet Kumar. After hearing the parties and analyzing the evidence adduced by the parties, the learned trial Court decreed the suit of the plaintiff / Respondent No 1 vide judgment and decree dated 07.12.2012 and 10.12.2012 respectively.

6. The petitioners filed an appeal No.01/2013 before the Court of learned District Judge, Shikarpur, which was assigned to the Court of learned II-Additional District Judge, Shikarpur. The appeal was dismissed vide judgment and decree dated 02.10.2013. It appears that the judgment and decree passed by the appellate Court was not challenged before this Court under its revisional jurisdiction under section 115 C.P.C. The judgment and decree on account of no challenge by the Petitioners attained finality. The Respondent

No 1 / Decree Holder filed Execution Application No.07/2014. Learned Executing Court allowed the execution application vide order dated 30.10.2014. Revision Application was filed by the Petitioners against the order dated 30.10.2014 passed by the Executing Court. It further appears from the record that when petitioners failed to get any relief in the execution proceedings, they filed an application u/s 12(2), CPC before the Court of Learned 1st Senior Civil Judge, Shikarpur, which too was dismissed vide order dated 30.10.2014, while the revision application against the order dated 30.10.2014 passed on 12(2), C.P.C. application was filed before the Court of Learned District Judge, Shikarpur, which was assigned to Court of Learned Additional District Judge-I, Shikarpur, which too was dismissed vide order dated 18.05.2015. The instant proceedings challenge the orders passed by the revisional Court under the execution proceedings. There is no challenge against the orders passed on 12(2) C.P.C. application, thus need no deliberations.

7. It is for the first time that the petitioners have taken the plea that the instant matter pertained to the insurance claim of the late husband of the respondent No.1 and fell within the exclusive domain of Insurance Tribunal constituted under Insurance Ordinance 2000. Careful perusal of the pleadings filed by the Petitioners made it explicitly clear that no such ground was ever taken before Trial Court, appellate Court and in the instant petition. On the contrary, the claim of the Respondent No 1 was denied on the premise that same was time barred. The original judgment and decree passed by the trial Court as well as appellate Court were not challenged under the revision proceedings available to the petitioners in terms of Section 115, C.P.C., wherein such legal questions could have been appropriately examined and settled. Non-filing of the revision application against the original judgment and decree set at rest the entire controversy between the parties, as the judgments and decrees passed by the Courts below attained finality and became a closed and past transaction. The Executing Court cannot examine the merits of the case; its sole function was to get the decree executed. The Executing Court as a settled principle of law cannot go beyond the decree. This petition apparently was filed to defeat the cause of justice and hamper the execution proceedings and to avoid the satisfaction of the decree.

8. Under the provisions of the Insurance Ordinance 2000, the Insurance Tribunal has been conferred the exclusive jurisdiction under section 122 of the ordinance to entertain the claim of a policy holder against the insurance company in respect of a case arising out of the insurance policy. Section 122 reads as under:

“122. Power of the Tribunal.--- (1) a Tribunal shall:

(a) in exercise of its civil jurisdiction have in respect of a claim filed by a policy holder against an insurance company in respect of, or arising out

of a policy of insurance, all the powers vested in a Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908).

(b) in the exercise of its criminal jurisdiction, tried the offences punishable under this Ordinance and shall, for this purpose, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1898 (Act V of 1898;

(c) exercise and perform such other powers and functions as are, or may be, conferred upon, or assigned to it, by or under this Ordinance; (d) in all matters with respect to which procedure has not been provided for in this Ordinance, follow the procedure laid down in the Code of Civil Procedure, 1908 (Act V of 1908) or the Code of Criminal Procedure, 1898 (Act V of 1898) as the case may be.

(2) _____

(3) No Court other than a Tribunal shall have or exercise any jurisdiction with respect to any matter to which the jurisdiction of a tribunal extends under this Ordinance.

Provided that

9. The perusal of the above provisions of law made it clear that the insurance tribunal has got the exclusive jurisdiction to entertain the claim of the policy holder against the insurance company. Learned Counsel for the Petitioners when confronted to this legal position frankly conceded that Petitioner was a banking company and did not fall within the definition of insurance company.

10. When confronted about any illegality in the order passed Executing Court, learned Counsel for the Petitioner failed to point out any single infirmity or illegality in the impugned orders. Perusal of the impugned orders revealed that the same were passed in pursuance of the decree, no infirmity could be traced that the Executing Court travelled beyond the scope of Decree. It can be safely held that there was no illegality in the impugned orders passed by the Courts below under Execution Proceedings. .

11. The case laws relied upon by the learned Counsel for the petitioners with utmost regards are on different footings thus distinguishable.

12. For aforementioned reasons, we have reached to an irresistible conclusion that the findings of the Courts below in the execution proceedings did not suffer from any illegality or perversity requiring interference by this Court under its supervisory and corrective jurisdiction conferred under article 199 of the constitution of the Islamic Republic of

Pakistan of 1973. Consequently, this petition fails, which is accordingly dismissed with no order as to costs.

JUDGE

JUDGE

Larkana

Dated: 09.09.2025

Approved for reporting