

bORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

R.A No.187 of 2005

Date	Order with signature(s) of Judge(s)
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- 1. For hearing of CMA No.3231/2005**
- 2. For hearing of CMA No.3357/2005**
- 3. For hearing of Main Case**

26.05.2016

Mr. Badrul Alam, advocate for applicant.
None present for the Respondent.

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This Revision is directed against a simple order whereby in a suit under summary chapter the trial court has passed an equitable order in the following terms.

Therefore, in such situation leave to defend granted to the defendants subject to furnishing security equivalent to suit amount.

The Defendant was required to furnish security equivalent to the amount of Promissory Note. Instead of filing security, the Defendant/applicant has filed this civil Revision on **17.10.2005** and lingered on this case to the maximum. Even today, he started arguments with the idea that this case should be adjourned on account of absence of the respondents whose legal heirs have already come on record as back as on **23.9.2013**. The record shows that on every date the counsel for the applicant has been instrumental in taking the date in this case for the last 11 years. Today after going through the entire judgment he was unable to justify that why even simple security cannot be obtained from the Defendant/applicant in a suit of Promissory Note. Learned counsel attempted to make detailed discussion beyond the scope of revisional jurisdiction by claiming that suit was not maintainable on Promissory Note. He has also stated that may be executant of Promissory Note has died. Learned

counsel is representing legal heirs of the executant of Promissory Note and one of the legal heirs, Kamran Saeed was already party in the suit under summary chapter though admittedly in the initial stage he should have not been party by virtue of the fact that he was not signatory to the Promissory Note. However, on account of delay by his own counsel to conclude these proceeding within reasonable time on the death of executant of Promissory Note, the Defendant No.2 being legal heirs of deceased executant shall be bound by the consequence of the judgment of the trial court. No case is made out to interfere in the neat, clean and transparent order on equity passed by the trial court to ensure that the defaulting party should not runaway with the money and defeat the final order. This matter was lingered on for 11 years by the applicant and such conduct shows the intention of the applicant that they were not interested in the fair trial. Therefore, impugned order to the effect of furnishing security was justified as the subsequent conduct of the applicant confirms it. This Revision is dismissed with cost of Rs.10,000/- @ Rs.1000/- per year on account of being frivolous revision. Cost should be deposited with the Nazir of the trial court.

Copy of this order be sent to the trial court with directions that case should be decided within six months after notice to the parties.

SM

JUDGE