

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
First Appeal 83 of 2017

Order with signature of Judge

For hearing of CMA 13 of 2019

31.05.2019

None present for the appellant .
Mr. Liaquat Ali, Advocate for respondent 1.

This appeal was directed against the judgment dated 31.05.2013 in Summary Suit 31 of 2010 passed by Additional District Judge, Karachi Central. The summary suit was filed by the respondent 1 under XXXVII CPC against the appellant for recovery of Rs.14,01,290/- alongwith mark up thereon. The suit was decreed in the same amount by the learned District Judge and the judgment was challenged by the defendant through this appeal. Vide order dated 14.11.2014 passed in the appeal, the operation of the impugned judgment was suspended subject to furnishing decretal amount with the Nazir of this Court within a week with further caution that failure to deposit the decretal amount will result automatic vacation of the interim order. Thereafter, the appeal was heard and dismissed vide short order dated 13.11.2018 and reasons were recorded vide order dated 13th November, 2018. The Nazir report dated 10.01.2009 is available on record which was submitted by him in compliance of the order dated 07.01.2019. The Nazir has confirmed in his report that the appellant deposited Rs.342,500/- in compliance of the order dated 12.02.2014 and in compliance of the order dated 13.02.2015 a further sum of Rs.1,059,290/- was deposited and at present total Rs.1,401,790/- is lying in the saving accounts with National Bank, High Court Branch and some profit has also been earned on this amount. Since the appeal was dismissed by learned Division Bench of this Court therefore on 22.03.2019 we directed the Appellate Branch of this Court to see whether against the final judgment passed in this appeal, any appeal has been preferred in the Honorable Supreme Court or not. The Deputy Registrar, Supreme Court of Pakistan vide communication dated 30th March, 2019 informed the Assistant

Registrar, Civil Appellate Branch of this Court that no case has yet been filed in the Supreme Court. Since the judgment has attained finality, therefore, the respondent 1 filed the listed application for release of the decretal amount lying with the Nazir of this Court. At notice of this application, Mr. Muhammad Ali waris Lari, Advocate for the appellant appeared on 07.05.2019 and requested for some time to seek instructions from the appellant, but thereafter neither any objection/counter affidavit has been filed to this application nor the counsel for the appellant was present when the matter was called yesterday. However, on the request of respondent No.1 that he is in dire need of the amount which is lying with the Nazir of this Court, therefore, on his request we adjourned the case for today, but nobody is present on behalf of the appellant again.

In view of the above, listed application is allowed. Nazir of this Court is directed to release the amount deposited by the appellant with him alongwith profit accrued thereon to the respondent 1. The Cheque shall be handed over to the respondent 1 immediately after proper verification and identification.

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