

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
I.A. No.13 of 2015

Date	Order with signature of Judge
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Present

Mr. Justice Muhammad Ali Mazhar
Mr. Justice Agha Faisal

Standard Chartered Bank
(Pakistan) Limited.....Appellant

V E R S U S

Syed Ahmed Zubair.....Respondent

20.08.2019

Mr. Ghulam Rasool Korai, Advocate for Appellant.
None present for the Respondent.

Muhammad Ali Mazhar, J: This is an appeal under Section 22 of Financial Institutions (Recovery of Finances) Ordinance, 2001 with the prayer that this appeal may be allowed and judgment and decree be passed against the respondent in the sum of Rs.17,135,072.58 alongwith cost of funds from the date of default i.e. March, 2011 and costs of the suit and appeal. The brief facts of the case are that the appellant filed Banking Suit No.506/2011 in the Banking Court No.II at Karachi against the respondent. The trial court published notices in the newspapers but nobody appeared to defend and contest the suit within the statutory period nor any leave to defend application was filed, therefore, the trial court ordered to proceed ex-parte against the defendant. The learned counsel for the appellant argued that proper breakup was submitted in the trial court for consideration but instead of considering the breakup, the learned trial court only decreed the suit in the sum of Rs.6,066,151/- (being merely the principal less repayments), whereas in paragraph 4 it is stated that it was inclusive of markup till January, 2011.

2. We have also seen the impugned order and observe that there was no justification given by the learned trial court as to why the markup was not allowed nor any other justification to show that the appellant was not entitled for the markup. There is no material available to show what type of breakup was filed by the plaintiff in the trial court or the respondent and the claim of the plaintiff was based on Rs.17,135,072.58 and the learned trial court observed that the defendant only availed/utilized finance facility to the extent of Rs.10,000,000/- and against the said facility also paid a total sum of Rs.3,933,849/- till the date of default. On 20.11.2018 the learned Division Bench observed that the respondent has been served as per bailiff report but despite proper service he failed to contest the appeal. Today also neither the respondent is present nor his counsel.

3. As a result of above discussion, the impugned judgment and decree are set aside with the directions to the learned trial court to consider the breakup filed by the plaintiff and the defendant, after providing opportunity of hearing to the parties, and pass judgment and decree in accordance with the law, preferably within a period of two months.

JUDGE

JUDGE

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