

**IN THE HIGH COURT OF SINDH,
AT KARACHI**

C. P. No. D-7834 of 2019

Present:

Ahmed Ali M. Shaikh, CJ
and Yousuf Ali Sayeed, J

Petitioner : Allauddin Malik, in person.
Respondents : Nemo.
Interveners : Mst. Sabiha Jalil & others, through
Mazhar Ali B. Chohan, Advocate.
Date of hearing : 08.10.2021.

ORDER

YOUSUF ALI SAYEED, J. - The Petitioner, who is a practicing advocate and is himself the judgment debtor in Civil Execution No.07/2004 (the “**Execution**”) pending before the Vth Senior Civil Judge, Karachi, South (the Respondent No.1, “**Executing Court**”), has invoked the writ jurisdiction of this Court under Article 199 of the Constitution, impugning the propriety of an Order ostensibly made by the Executing Court on 19.11.2019, (the “**Impugned Order**”) whereby an earlier Order allowing an Application filed by the Petitioner under Order 18, Rule 18 was recalled and the Execution was fixed for hearing on a pending Application under Order 21 Rule 58 CPC.

2. The case of the Petitioner is that the Impugned Order was actually passed on 23.11.2019, in a clandestine manner, behind his back and without affording him an opportunity of hearing, and back dated by the Executing Court to reflect the date thereof as being 19.11.2019. Per the Petitioner, this was done in collusion with the decree holder.

3. On the basis of such allegations, the Petitioner has prayed inter alia that this Court be pleased to declare the actions of the Executing Court as constituting misconduct, with due action being taken accordingly, and that the Impugned Order also be declared to be illegal and be set aside.

4. As it transpires, the Petitioner had also made a complaint in the matter against the presiding officer of the Executing Court, which remains pending on the administrative side, and after institution of this Petition had also assailed the Impugned Order through Civil Revision No.26 of 2020 before the Court of the IInd Additional District Judge, Karachi, South, which was dismissed vide Order dated 27.01.2021, without any challenge then being preferred by the Petitioner against that Revisional Order.

5. Whilst the Petitioner's direct recourse to Article 199 against the Impugned Order was itself initially misconceived, it is apparent that in the wake of Civil Revision No.26 of 2020 that was subsequently filed and dismissed, the question sought to be agitated as to the propriety of the Impugned Order stands past and closed from the judicial standpoint. As to the further prayers seeking action against the presiding officer of the Executing Court, suffice it to say that the instant Petition is not the appropriate vehicle for a matter of that nature to be agitated and the same could be looked into and attended on the administrative side, in which regard a complaint has already been made by the Petitioner.

6. That being so, the Petition stands dismissed, with the result that the pending miscellaneous application of the Intervener, having become infructuous, also stands dismissed accordingly.

JUDGE

CHIEF JUSTICE

Karachi.
Dated: