

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Before:
Ahmed Ali M. Shaikh, CJ
Yousuf Ali Sayeed, J

CP No.D-6184 of 2021

Fresh Case

1. For orders on Misc. No.26209/2021 (urgent)
2. For orders on office objections No. 01
3. For orders on Misc. No.26210/2021 (Exemption)
4. For hearing of main case

18.10.2021

Mr. M. Shahnawaz Khan, Advocate for the petitioner Waliullah Khan.

AHMED ALI M. SHAIKH, CJ.- Through these proceedings petitioner seeks following relief(s):-

“a. To issue direction to the respondent No.2 to recall the warrant of arrest of the execution proceeding i.e. Ex.03/2018.

b. To graciously be pleased to grant bail into the execution proceeding i.e. Ex. No.03/2018.

c. To issue direction to the respondent No.2 to D-Block CNIC No.42201-6778873-5 or further graciously be pleased to issue direction the NADRA/Respondent No.3 to D-Block CNIC of the Petitioner mentioned supra.

d. To grant any relief which may deem fit and proper by this Hon’ble Court.

e. Cost of the petition.”

2. Briefly stated facts of the case are that Respondent No.1 filed a Summary Suit No.29 of 2016 (the “**Suit**”) for recovery of Rs.35,00,000.00 against the petitioner. After hearing the Suit was decreed vide Judgment dated 28.11.2017 passed by the learned VI Additional District Judge, Karachi Central. The Respondent No.1 filed Execution Application No.03/2018 in which the trial Court issued Non-Bailable Warrant and subsequently, on the application of the Respondent No.1 blocked CNIC of the petitioner. It is alleged that though the Petitioner alongwith his Counsel appeared before the trial Court for recalled the Warrants but no order as yet has been passed.

3. Learned counsel for the petitioner submitted that the petitioner is ready to satisfy the decree and deposit the amount on monthly instalments but the trial Court is reluctant to decide his said application. He further submitted that the executing Court vide order dated 19.11.2018 blocked the CNIC of the petitioner culminating in cessation of all his accounts and business events. To a query, learned counsel submitted that the petitioner has not assailed the Judgment and Decree or the orders passed by the Executing Court by filing Appeal or Revision under the Civil Procedure Code. It is well settled that it is not at the choice or discretion of the party to invoke the Constitutional Jurisdiction of this Court as an alternate remedy when adequate recourse under the law was available and no writ can be issued when the grievance is rectifiable through normal remedies available under judicial hierarchy.

For the foregoing reasons, we while allowing the misc. application seeking urgent hearing, dismiss the petition in limine alongwith pending application.

Judge

Chief Justice