

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

1st Civil Appeal No. S- 10 of 2015.
Civil Transfer A. No.S-14 of 2016.

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE.
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1. For orders on o/objection.
2. For orders on CM 298 of 2013.
3. For katcha peshi.
4. For orders on CMA 700 of 2015.

Mr. Illahi Bux Jamali Advocate for appellant/applicant in both matters.
Mr. Shabbir Ali Bozdar for respondent in both matters.
Mr. Abdul Ghaffar Memon, State Counsel.

Date of hearing: 09-05-2017

ORDER

MUHAMMAD SHAFI SIDDIQUI J., This 1st Civil Appeal is arising out of judgment and decree, passed by Additional District Judge, Kandiaro in summary suit No. 15 of 2010. The suit was filed in the year 2010 and after service of notice and summons, leave application was filed by appellant and conditional leave was granted. The appellant has failed to comply with conditional leave order and consequently on 30.06.2015, judgment and decree was passed. Subsequently, an execution application No. 6 of 2015 was filed and execution application was allowed on 02.12.2015. As against this, applicant has filed civil transfer application, however, inadvertently he sought transfer of summary suit instead of execution application No. 6 of 2015. Applicant has placed on record application for necessary correction. Office is directed to assign CMA number to this application.

2. To a query as to what grounds are available seeking transfer of execution application, learned counsel submits that applicant was made to sit in court after being hand-cuffed from morning till afternoon, however, on second query as to whether these allegations have been raised in the transfer application, he has stated that he has not mentioned it in the transfer application, hence ground, as alleged, is not available for consideration.

3. So far merit of the appeal is concerned, it seems that it is not an ex-parte judgment, as alleged. Infact, conditional leave was granted to the appellant, but he failed to comply and consequently suit was decreed on 30.06.2015, where after execution application has been filed. There is absolutely no substance either in the civil transfer application or in this appeal and consequently, both 1st civil appeal and civil transfer application are dismissed. The Executing Court may proceed as required under the law.

JUDGE

Ahmad