

ORDER SHEET

IN THE HIGH COURT OF SINDH HYDERABAD
CIRCUIT.

C.P. No. D — 679 of 2015.

DATE	ORDERS WITH SIGNATURE OF JUDGE
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14.09.2017.

FOR KATCHA PESHI.
FOR HEARING OF M.A. 2112/2015.

Mr. Muhammad Arshad S. Pathan, Advocate for petitioner.

Mr. Allah Bachayo Soomro, A.A.G. Sindh.

Mr. Rafique Ahmed Qureshi, Secretary Market Committee,
Tando Bago.

Petitioner being a contractor of Market Committee [respondent No.2] has filed this petition for adjustment of his financial obligation. A contract for the recovery of taxes was executed between petitioner and respondents No.2 & 3 for a period w.e.f. 1.11.1997 to 30.6.1998. (07 months). However, Pangrio Sugar Mills Limited has refused to pay such taxes to the contractor/petitioner as alleged. A complaint was filed with the Market Committee which is available as annexure 'C/89' however, no attention was paid. Consequently, two suits were filed one against the petitioner and one against Pangrio Sugar Mills for recovery of taxes. Suit No.12 of 2003 was filed against the petitioner for the recovery of 2,052,828/- which was decreed vide annexure 'B-2' at page 85 and the other suit against Pangrio Sugar Mills bearing F.C. Suit No.150 of 2000 having new number 19 of 2003, was decreed in the sum of Rs.24.90 million which amount include the amount for the period w.e.f. 1.11.1997 to 30.6.1998. In terms of the Statement of Accounts as per annexure 'D/9' to total outstanding against petitioner was Rs.1739025/- for the period of 1997-98 i.e. above period of 07 months.

Learned counsel for the petitioner submits that the Market Committee enjoying two decrees for the same amount. One against the petitioner and the other against the Pangrio Sugar Mills and hence they cannot recover the same amount twice with two different entities. He submits that an amount of security in the sum of Rs.752000/- is already lying with the Market Committee whereas for the rests of the amount of the decree they have already provided cheque and if not available they shall further secure the differential amount by depositing the differential

amount with the Additional Registrar of this Court. However this amount shall be a security until such time the decree against the Pangrio Sugar Mills as obtained by them is not executed.

Mr. Soomro submits that the liability of the petitioner is independent liability and it cannot be saddled or adjusted as against the decree obtained against Pangrio Sugar Mills.

We have heard the learned counsel and perused the record.

There is no cavil that the Market Committee obtained two decrees in respect of the same amount independently one against the petitioner and the other against Pangrio Sugar Mills which include the amount to be recovered by petitioner under a contract. As against the outstanding financial facilities the Official Assignee is already proceeding against the Pangrio Sugar Mills for sale of assets of the Mill. We deemed it appropriate to direct the petitioner to provide the security of the differential amount with the Additional Registrar of this Court which may be invested in some best available profit bearing scheme and in the meantime the Market Committee may pursue their remedy for the execution of the decree that they have obtained against Pangrio Sugar Mills and may also pursue their remedy with the Official Assignee before whom the matter in relation to the sale of the Pangrio Sugar Mills is pending. Only in case they failed in their object for the satisfaction of their decree against Pangrio Sugar Mills suit No.150/2000 and new No.19 of 2003 the question for the encashment and the release of the amount lying with them as security and with the Additional Registrar of this Court as mentioned above be considered.

Judge

Judge

A.