

ORDER SHEET

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD.**

Revision Appln. No. 226 of 2018.

DATE	ORDER WITH SIGNATURE OF JUDGE[s]
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11.04.2022.

FOR HEARING OF C.M.A. 2246/2018.
FOR HEARING OF MAIN CASE.

Mr. Abdul Hameed Bajwa Advocate for applicant.

Mr. Muhammad Lutufullah Arain Advocate for respondent No.1.

This revision application is filed by the applicant against concurrent findings of two courts below. Respondent filed a suit for declaration possession and permanent injunction against the applicant. Applicant after service of notice/summon appeared but failed to file written statement and then debarred. Suit proceeded ex parte, whereafter affidavit in ex parte proof was filed along with some witnesses, the contents of which have gone unchallenged and unrebutted. On consideration of pleadings and contents of affidavit in ex parte proof and witnesses, suit was decreed. Respondent then preferred execution application. A belated appeal was filed along with revision applications that concerns with orders passed in execution application. Appeal being barred by time dismissed along with revisions were dismissed hence this revision application against dismissal of appeal only.

Applicant's counsel has not raised any of such ground in the memo of revision nor even cared to argue this point that the order of the appellate court that concerns with the limitation of the appeal was incorrect. In the first instance there was an ex parte decree as despite appearance on two dates as observed by the trial court and appellate court, the applicant did not respond to the pleading and evidence in support thereof. Secondly, a belated appeal was filed without any legitimate excuses and it was dismissed as being barred by time along with the revision application that was arising out of the execution

application. With these facts and circumstances the merit of the case cannot be opened that the “Iqrarnama” was not lawful or proved. The applicant in the first instance has lost his defense as he was debarred from filing written statement and then a belated appeal destroyed it further. Even if the “Iqrarnama” is excluded from the purview, there was sufficient evidence on record that the applicant has not performed his obligation and the requisite cheques paid in consideration were also bounced. It is immaterial that cheques were issued by another person as it was the case of the respondent that those cheques were given on behalf of the applicant and there is no defense at all contrary to the above understanding. The scope of section 115 CPC is very limited and it cannot be stretched down to consider those points which were not even pleaded and / or supported by appropriate evidence.

In view of the above facts and circumstances no case for any indulgence is made out. No jurisdictional error has been pointed out, this revision application as such is dismissed.

JUDGE

A.