

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**

C. P. No. D-4646 of 2023

Date	Order with signature of Judge
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FRESH CASE.

1. For orders on Misc. No.21448/2023.
2. For orders on Misc. No.21449/2023.
3. For orders on Misc. No.21450/2023.
4. For hearing of main case.

28.09.2023.

Mr. Muhammad Shahid Malik, Advocate for the Petitioners.

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**YOUSUF ALI SAYEED, J. -** The Petitioners have invoked the jurisdiction of this Court under Article 199 of the Constitution, impugning the Order dated 12.09.2023 made by the learned District Judge, Karachi, Central, dismissing Civil Revision No.51/2023 filed by them against the earlier Order passed by the learned VIIth Senior Civil Judge, Karachi, Central on 06.04.2023, allowing the Execution Application No.01/2023 filed by the Respondent No.1 in respect of the judgment and decree in Civil Suit No.757/2020.

The trail of litigation forming the backdrop to the matter has been exhaustively recorded by the Revisional Court, with the relevant excerpt of the Order dated 12.09.2023 reading as follows:

“Admittedly, the appeal of Judgment Debtor could not succeed at the appellate forum and even 2<sup>nd</sup> appeal was also dismissed and against such dismissal, a Constitution Petition has been preferred by the Judgment Debtor which is pending adjudication but no stay could be obtained by the Judgment Debtor to stay the executing proceedings.

Suit of the respondent No.1 was decreed on 01.12.2020 and Civil Appeal against such judgment and decree was dismissed vide order dated 16.08.2021, the 2<sup>nd</sup> Appeal against the appellate judgment was also dismissed on 07.03.202. The Judgment Debtor though has filed Petition under Article 185(3) of the Constitution of Pakistan, 1973 which petition was presented on 28.04.2022 but till to-date

no order for suspension of the judgment or at least for stay of Execution Application could be obtained by the applicant/ Judgment Debtor. Rule 26 of Order 21 CPC also provides to enable the Judgment Debtor a reasonable time to apply to the appellate forum or obtain the order for stay of execution proceedings. So far a reasonable time is concerned, more than one and half year has been passed, the Judgment Debtor preferred petition before the Hon'ble Supreme Court of Pakistan on 28.04.2022 yet, no order for stay of execution proceeding has been obtained.”

On query posed, to learned counsel for the Petitioner as to what error, perversity or illegality afflicted the Orders of the fora below, the only argument forthcoming was that the computation of profit advanced by the Respondent No.1 was beyond what had been awarded in terms of the judgment and decree. However, a perusal of the Order dated 12.09.2023 reflects that while dismissing the Revision, the Court had addressed the very issue while observing that the “learned Executing Court is directed to pass a fresh order making its own calculation about the total sum of decretal amount”.

Under the given circumstances, we are of the view that the Petition is misconceived. Hence, while granting the application for urgency, we hereby dismiss the Petition *in limine*, along with the other miscellaneous applications.

JUDGE

JUDGE

MUBASHIR