

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

C.P No.D-1558 of 2022

Present

Mr. Justice Muhammad Iqbal Kalhoro

Mr. Justice Arbab Ali Hakro

Petitioners: Shiv Oil Mill through Proprietor
Through Mr. Ashok Kumar K.
Jamba, Advocate

Respondent No.1: M/s National Bank of Pakistan,
Through Fareed Ahmed Soomro,
Advocate

Mr. Ashfaque Hussain Abro,
Assistant Attorney General

Date of hearing: 21.12.2023

Date of Decision: 01.02.2024

J U D G M E N T

Arbab Ali Hakro, J: Through this petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the Petitioners have called in question the Order dated 07.12.2022, whereby the Banking Court-II Sukkur issued warrants of arrest of the Petitioners/judgment-debtors.

2. The facts relevant to the disposal of the present petition are that the Banking Court passed a decree for the recovery of Rs.36,452,472/- on 16.10.2021 against the petitioners. Following this, the decree-holder/respondent-bank initiated execution proceedings. Based on a statement filed by the respondent-bank, the Judge of the Banking Court issued a Warrant of Arrest against the petitioners/judgment debtors because the auction proceedings had failed. Consequently, the arrest warrants for the judgment debtors were issued as per the impugned Order dated 07.12.2022.

3. The Petitioners filed an appeal (1st Appeal No.38 of 2021) against the judgment dated 09.10.2021 and the decree dated 16.10.2021. Through a judgment of the even date passed in the aforementioned first appeal, this court has allowed the Petitioners' appeal, set aside the above judgment and decree, and remanded the case to the Banking Court. Since the judgment and decree, which gave rise to the execution application, have been set aside, the execution application has thus become *infructuous*, and the orders passed therein have lost their validity. In light of this, with the acceptance of the 1st Appeal No.38 of 2021, the present petition has become infructuous and cannot proceed further.

4. The present petition stands disposed of as having become *infructuous*.

JUDGE

Faisal Mumtaz/PS

JUDGE