

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD.

Revision Application No. 190 of 2022

Date of Hearing: 22.04.2024.

Date of Order: 22.04.2024.

Applicant: Tanveer Ahmed Through Mr. Abdul Latif Bhatti
Advocate.

Respondents: Nemo for Respondents.

ORDER

YOUSUF ALI SAYEED, J.- The Applicant has impugned the dismissal of Civil Appeal No.11 of 2022 filed by him before the learned District Judge Badin against the earlier dismissal of Execution Application No.01 of 2020 filed before the learned Senior Civil Judge, Golarchi at Badin, for enforcement of the decree in F.C. Suit No.20 of 2015.

2. As it transpires the Execution was dismissed on 06.11.2021, with the Appeal then meeting the same fate on 31.05.2022, and a perusal of the record reflecting that the dismissal was predicated on the fact that the underlying Decree was the product of a compromise between the parties to the Suit, and the fora below taking the view that the same did not admit to execution in light of the judgment of the Supreme Court in the case reported as Peer Dil and others v. Dad Muhammad 2009 SCMR 1268, which was considered to have enunciated the principle that the enforcement of a compromise decree lies by way of a fresh suit rather than an execution application.
3. However, as it stands, the aforementioned case does not lay down any principle barring the execution of a compromise decree and, instead, is authority for the proposition that where a compromise decree is not executable, the compromise may be treated as a

contract between the parties on the basis of which a fresh civil suit would lie for its enforcement. Furthermore, in terms of Section 47(1) of the C.P.C., 1908, the executing Court is empowered to decide whether such a decree is executable as per its terms, and if it is of the view that this is not so, it may treat the proceedings as a suit, as envisaged in Section 47(2) C.P.C.

4. That being said, the Judgment of the Appellate Court and the Order of the Executing Court are both set aside, with the matter being returned to the Executing Court for further proceedings in the proceedings in accordance with law.

JUDGE

Arif.