

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

H.C.A. No.25 of 2025

Syed Hamid Ali & another
Versus
Dubai Islamic Bank Ltd. & others

Date	Order with signature of Judge
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1. For orders on CMA 1303/25
2. For orders on office objections as at "A"
3. For hearing of main case.
4. For hearing of CMA 204/25

Dated: 01.10.2025

Ms. Marium Badar, advocate for appellants.
Mr. Suleman Hudda, advocate for respondent No.1.

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MUHAMMAD IQBAL KALHORO, J.- We have heard the parties. This appeal impugns an order dated 04.02.2025 passed by learned Single Judge of this Court in Suit No.375 of 2019 filed by the appellants seeking declaration in respect of House No.D-1, Block-11, Federal B Area, K.D.A. Scheme No.16, Karachi. The property was mortgaged with respondent No.1, the bank, by respondents No.4 to 6. Subsequently the mortgaged decree was passed in favour of Bank in a Suit No.125 of 2017. The appellants filed an application under order I Rule 10 C.P.C. to become a party in the banking suit but it was dismissed. In the judgment and decree passed by the Banking Court, all these facts rooted in the claim of appellants to be the actual owner of property have been discussed and entire history as to how the property ultimately landed up as mortgaged has been traced by it.

Appellants' application under order XXXIX Rule 1 & 2 CPC in the suit has been dismissed by impugned order and the learned Single Judge has observed that the only remedy available to the appellants is either under order XXI ule 58 CPC before the Banking Court or by an appeal. Admittedly

the time for filing of appeal has already expired. However, the appeal filed by remaining respondents against judgment and decree is pending in which appellants are respondents.

Learned counsel for the appellants after arguing at some length when could not satisfy the Court about entitlement of the appellants to injunctive order has agreed to file the application under the above provision of law i.e. Order XXI Rule 58 CPC before the Banking Court to put his case and has sought direction that the Banking Court may be ordered to decide the application first before proceeding with the execution application. The appeal is, therefore, disposed of with the consent and in addition, it is observed that if any such application as above is filed by the appellants in the banking Court it shall be decided first before proceeding further in the execution application.

Instant High Court Appeal stands disposed of in the above terms along with listed applications.

Judge

Judge