

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

1st Appeal No.D- 63 of 2024

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection No.14 & 18.
2. For orders on CMA 1221/2026.
3. For hearing of CMA 3703/2024.
4. For hearing of CMA 3704/2024.
5. For hearing of main case.

05.05.2026.

Mr. Nazeer Ahmed Dahri, Advocate for appellant.
Mr. Muhammad Siddique Soomro, Advocate for respondent.

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The applicant/defendant-customer Muhammad Moosa Walhro has impugned the judgment and decree dated 15.10.2024 passed by the Banking Court-II at Hyderabad in Suit No.444 of 2023. Counsel for the appellant contends that the Banking Court-II at Hyderabad has passed the judgment and decree without articulating any reason for the rejection of leave to defend application. Counsel for respondent-bank concedes that in the instant case the Banking Court-II at Hyderabad has not passed any separate order following the filing of leave to defend application and that the impugned judgment and decree well covers the defence of the appellant/defendant-customer.

Heard learned counsel for the parties. It is apparent from the perusal of the impugned judgment, decree and the record available that the appellant/defendant-customer had filed an application for leave to defend, at the same time this was followed by a replication filed by the respondent-bank. The matter was ripe for hearing but the appellant/defendant did not follow-up the matter diligently. Consequently the learned Banking Court-II Hyderabad proceeded to dismiss the leave to defend application without discussion of the preliminary legal objection and / or other grounds raised in the said

application. Indeed without articulating, as such, for all purposes the leave to defend application appears to have been dismissed for non-prosecution. There are no reasons given for dismissal of leave to defend application. None is available in the impugned judgment. In the circumstances even if none appeared the Banking Court was statutorily required to first decide the leave to defend application and thereafter, pursuant to Section 10 (11) and 10(12) of the Financial Institution (Recovery of Finances) Ordinance, ("FIO"), 2001 proceed further in the matter as the case may be. This mandatory statutory process and the reasons are entirely missing. Therefore, the impugned judgment and decree have no legs to stand sans any reasons. Accordingly the impugned judgment and decree are set aside. The matter is remanded to the Banking Court-II at Hyderabad to decide the leave to defend application with reasons afresh within a period of 90 days.

This first appeal stands disposed of in the above terms along with listed applications.

JUDGE

JUDGE

Tufail