

ORDER SHEET

HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

1st Appeal No.D-21 of 2026

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For hearing of CMA No.799/2026
2. For hearing of CMA No.800/2026
3. For hearing of main case

06.05.2026.

Mr. Shahzad Ahmed Narejo, Advocate for Appellant

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At the very outset, Mr. Muhammad Siddique Soomro, Advocate files Vakalatnama on behalf of Respondent's bank which is taken on record.

Counsel for the Appellant/defendant/customer contended that the Bank Court No.II, Hyderabad, in Banking Suit No.244 of 2023 (re-National Bank of Pakistan Vs. Kazi Muhammad Umar) in a hasty manner decided the entire dispute with the dismissal of the leave to defend application and simultaneously announcing Judgment and Decree on the same date i.e. 17.02.2026. Counsel submits that the leave to defend order and Judgment and Decree are all impugned in this First Appeal. Counsel further contended that the Respondent-Bank unilaterally and without any notice to the Appellant modified/varied the terms and conditions of the finance which is also contrary to the principle of natural justice.

Counsel for Respondent's Bank vehemently opposed these submission of the Appellant counsel and contended that there is no error in the impugned order/Judgment and Decree dated 17.02.2026 and that the same have been passed in accordance with law.

Heard counsel and perused the documents available in the First Appeal. At the outset, we have sight of the sanction letter dated 23.04.2012 concerning the House Building Finance advanced by the Bank to the

customer. According to the terms and conditions, specifically Condition No.10 of the Sanction letter, it was agreed between the parties that “the Bank reserves the right to charge usual rate of markup (i.e. applicable to general public) on the outstanding amount of loan from the date, the employee ceases to be on the strength of the Bank for any reason whatsoever”. Further as per the undertaking available on page-121, the appellant undertook that “I further Irrevocably and unconditionally undertake to pay to the entire satisfaction of the Bank the difference amount, if any, on demand at the time of my retirement and or separation from the Bank service. Till the balance outstanding amount has not been paid, the Bank is authorized to charge markup at the commercial rate from the date of my separation from the Bank service”.

The second page of the sanction advice bears the signature of the appellant, which matches with the signature in the affidavit of the appellant filed in support of the Appeal. Thus, the terms and conditions of the sanction advice were also accepted by the Appellant/defendant on “as is” basis without any pre-conditions.

Additionally, we also have sight of two undertakings also signed by the Appellant, the one available on page-121 (as above) and another on page-125 given by the appellant. In both the undertakings, the appellant agreed that “I have no objection and hereby authorize the Bank to recover the remaining amount of house Building Finance from my retirement benefits and or legal heirs and or any dues at the time of retirement and/or separation from Bank service.”

In view of the above terms and conditions of the Sanction Advice and the two undertakings, the Appellant had given his satisfaction and accord to the Respondent-Bank to amend/modify/vary its’ terms and conditions. There is/was no express provision regarding notice to be issued to the Appellant in case of any variation in the terms and conditions of the finance

on the part of the bank. If this was the case, then clearly the Appellant could have stated or mentioned the same when accepting the sanction advice/undertaking and inserted such condition therein. However, none is available in the above documents. Thus, we are not impressed by the Appellant counsel contention that the terms could not be varied without notice.

We now turn to Appellant's next contention concerning that he has been deprived a right of hearing. The fact of the matter is that the impugned order/ Judgment and Decree have well-recorded the contention of the Appellant and the same are considered and well-reasoned. Such articulation negates counsel assertion of want of hearing. Clearly, appellant submissions have been considered. This is sufficient to satisfy the requirement of the right of hearing within the framework of the Financial Institutions (Recovery of Finances) Ordinance ("FIO"), 2001.

Turning to the counsel's third contention that the leave to defend order and Judgment and Decree have been passed in haste. The provision of Section 10(12) of the Ordinance states that where an application for leave to defend is rejected, the Banking Court forthwith proceed to pass Judgment and Decree in favour of the plaintiff. Counsel contention that on the previous dates of hearing, the Bank had agreed for adjournments in order to attempt an amicable settlement and thus, the action on the part of the Banking Court to pass final order i.e. dismissal of leave to defend and announcement of the Judgment and Decree are colourable does not appeal to reason and such interpretation would be contrary to the statutory framework of Section 10 of FIO, 2001. The actions pertaining to the conduct of the banking suit remain with the Banking Court falling within the procedural options available to the Banking Court in conduct of the banking suit under the FIO, 2001. The provisions of FIO, 2001 empowers the Banking Court to decide the dispute as expedient, keeping in view the facts

and circumstances of the case, under the provisions of FIR, 2001. There is no fetter on the Banking Court to delay banking court proceedings if parties mutually agree to give themselves time. Given the foregoing the submissions made by the Appellant also do not find favour on this score.

Finally, counsel for the Appellant contended that the Appellant has retired since 2019 and this judgment and Decree will present a financial burden on the Appellant/J.D. While we note counsel submissions, we are constrained to consider the Appeal on humanitarian grounds given contours of FIO, 2001. Such assertions may be taken up by the Banking Court in execution to be decided on its own terms, independently.

In the circumstances, the First Appeal stands **dismissed** alongwith listed applications in the above terms.

JUDGE

JUDGE

AHSAN K. ABRO