IN THE HIGH COURT OF SINDH AT KARACHI

PRESENT:

Mr. Justice Arshad Hussain Khan
Mr. Justice Amjad Ali Sahito

Special High Court Appeal No.53 of 2014

Appellant	:	M/s. National Bank of Pakistan through Mr. Abid Hussain, Advocate
Respondents	:	M/s. Polycot Textile Industries and others Nemo.
Date of Hearing	:	04.11.2026
Date of Judgment:		___.11.2026

J U D G M E N T

Amjad Ali Sahito, J-. Through this appeal, the appellant has called in question the order dated 05.12.2013, whereby the learned Single Judge dismissed the execution application arising out of the judgment and decree dated 01.03.2001, passed in Suit No.B-229 of 2000, on the ground that the same was barred by limitation. The controversy essentially relates to the applicability of the provisions of the Limitation Act, 1908, to an execution application arising out of a decree passed under the Banking Companies (Recovery of Loans, Advances, Credits and Finances) Act, 1997 (hereinafter referred to as the "Act of 1997"), and the effect of the subsequent promulgation of the Financial Institutions (Recovery of Finances) Ordinance, 2001 (hereinafter referred to as the "Ordinance of 2001").

2. The relevant facts, briefly stated, are that the appellant instituted Suit No.B-229 of 2000 under Section 9 of the Act of 1997 for recovery of an amount of Rs.12,31,80,127/-. The said suit was decreed ex parte on 01.03.2001. Subsequently, the Ordinance of 2001 was promulgated on 30.08.2001, repealing the Act of 1997 and introducing a revised mechanism for adjudication and execution of decrees passed by Banking Courts. The appellant, thereafter, submitted particulars of the

mortgaged, pledged and hypothecated properties and other assets of the judgment debtors in April 2013, seeking execution of the decree under the provisions of the Ordinance of 2001.

3. The judgment debtors raised a preliminary objection regarding limitation, contending that the decree had been passed on 01.03.2001 and the execution application, having been instituted after an unexplained period of more than twelve years, was hopelessly barred by time. The appellant, on the other hand, maintained that the promulgation of the Ordinance of 2001, before expiry of the period of limitation, resulted in the automatic conversion of the suit into execution proceedings and, consequently, no separate execution application was required to be filed within the period prescribed under the previous law.

4. The learned Single Judge, after hearing the parties and examining the relevant statutory provisions, held that the Ordinance of 2001 was applicable to proceedings pending before the Banking Courts on the date of its promulgation. Since the suit in question had already culminated in a judgment and decree on 01.03.2001, no lis remained pending on 30.08.2001 so as to attract the transitional provisions of the Ordinance. The learned Single Judge further held that the execution application was governed by Article 181 of the Limitation Act, 1908, prescribing a period of three years, and accordingly dismissed the same as time-barred. Hence, the present appeal.

5. Learned counsel for the appellant has contended that the learned Single Judge failed to appreciate the legal effect of the promulgation of the Ordinance of 2001 and its applicability to decrees passed under the Act of 1997. It is argued that, at the time of promulgation of the Ordinance, the period available for execution of the decree had not expired and the subsequent enactment, particularly Section 19 thereof, dispensed with the requirement of filing a separate execution application. It is further contended that all proceedings under the repealed Act stood transferred to the Banking Courts constituted under the Ordinance of 2001 and, therefore, the appellant's right to recover the decretal amount could not be defeated on the ground of

limitation. Conversely, learned counsel for the respondents has supported the impugned order and submitted that the decree had attained finality before promulgation of the Ordinance; therefore, the provisions relating to transfer of pending proceedings and automatic conversion of suits into execution proceedings have no application to the present case.

6. We have heard the learned counsel for the parties and examined the available record, the impugned order and the relevant statutory provisions. The following question arises for determination:

> Whether the promulgation of the Financial Institutions (Recovery of Finances) Ordinance, 2001, could revive or otherwise extend the period of limitation for execution of a decree which had already been passed under the Banking Companies (Recovery of Loans, Advances, Credits and Finances) Act, 1997, before the promulgation of the Ordinance?

7. Before examining the rival contentions, it would be appropriate to refer to the relevant statutory framework. Section 22 of the Act of 1997 dealt with the application of the Limitation Act, 1908, to proceedings before the Banking Courts. The said provision regulated the applicability of limitation to proceedings instituted or transferred under the Act. It did not, however, confer an unlimited period for execution of decrees or authorize a decree-holder to institute execution proceedings at any time without regard to the applicable law of limitation.

8. The Ordinance of 2001 was promulgated on 30.08.2001 with the object of repealing and, with certain modifications, re-enacting the previous legislation. Section 7(6) of the Ordinance provides for transfer of all proceedings pending before Banking Courts constituted under the Act of 1997 to the Banking Courts having jurisdiction under the Ordinance. The language employed in the said provision is significant, as it expressly relates to proceedings which were pending at the time of promulgation of the Ordinance. It does not provide that decrees already passed and proceedings finally concluded under the repealed Act shall,

merely by reason of the subsequent enactment, be reopened or treated as pending proceedings.

9. In the present case, the judgment and decree were passed on 01.03.2001, whereas the Ordinance of 2001 came into force on 30.08.2001. Thus, on the date of promulgation of the Ordinance, the suit had already culminated in a decree. The proceedings on the merits had consequently attained finality, and no pending suit remained capable of being transferred under Section 7(6) of the Ordinance. The mere fact that the decree remained unsatisfied did not, by itself, revive the concluded proceedings or convert them into a pending suit within the contemplation of the aforesaid provision.

10. The appellant has particularly relied upon Section 19 of the Ordinance of 2001, which provides that upon pronouncement of judgment and decree by a Banking Court, the suit shall automatically stand converted into execution proceedings without the necessity of filing a separate application. However, the applicability of this provision cannot be considered in isolation from the commencement and transitional provisions of the Ordinance. Section 19 provides a statutory mechanism for execution of decrees passed by Banking Courts under the Ordinance. It cannot be construed to operate retrospectively so as to revive an execution remedy which had already become barred, or to extend the limitation period applicable to a decree passed under the repealed Act before the Ordinance came into force.

11. Even otherwise, Section 19 does not dispense with the requirement of execution proceedings being governed by the applicable law of limitation. It merely provides that, in cases falling within its operation, the suit shall automatically stand converted into execution proceedings without requiring a separate execution application. The provision cannot be interpreted as conferring an unlimited or perpetual right of execution upon a decree-holder. Had the legislature intended to revive all previously passed decrees or exempt them from the law of limitation, it would have made an express provision to that

effect. No such intention can be gathered from Sections 7(6), 19 or 29 of the Ordinance.

12. Section 24 of the Ordinance of 2001 further provides that, save as otherwise provided in the Ordinance, the provisions of the Limitation Act, 1908, shall apply to all cases instituted or filed in a Banking Court after the coming into force of the Ordinance. Sub-section (2) thereof enables a Banking Court to entertain a suit under Section 9 beyond the prescribed period where sufficient cause for delay is established. The said provision relates to the institution of a suit and does not confer any corresponding power to condone delay in filing an execution application. Therefore, the appellant cannot derive any benefit from Section 24(2) of the Ordinance in order to overcome the statutory bar applicable to the execution of the decree in question.

13. The repeal of the Act of 1997 by Section 29 of the Ordinance of 2001 does not lead to a different conclusion. The repeal of a statute does not, in the absence of an express legislative intention, revive a right or remedy which has already become barred under the law previously applicable. Nor can a subsequent enactment be interpreted to impair rights which had accrued to the judgment debtors by operation of the law of limitation. The appellant's contention that the promulgation of the Ordinance automatically removed the limitation applicable to the decree is, therefore, misconceived.

14. We may now examine the applicable provision of the Limitation Act, 1908. Article 181 of the Schedule to the said Act prescribes a period of three years for an application for which no specific period of limitation is provided elsewhere in the Schedule or under Section 48 of the Code of Civil Procedure, 1908. The period commences when the right to apply accrues. In the present case, the right to seek execution accrued upon passing of the decree dated 01.03.2001. Consequently, the appellant was required to initiate execution proceedings within the prescribed period of three years.

15. The distinction between Article 181 of the Limitation Act and Section 48 of the Code of Civil Procedure has been authoritatively explained by the Honourable Supreme Court in **Mahboob Khan v. Hassan Khan Durrani (PLD 1990 SC 778)**. The Honourable Supreme Court held that Section 48, C.P.C. does not prescribe the period within which the first application for execution of a decree must be filed. Rather, it provides an outer limit in respect of a subsequent or fresh application for execution. Where no specific period is prescribed, the first application for execution is governed by the residuary Article 181 of the Limitation Act, which provides a limitation period of three years.

16. The aforesaid principle was also followed by the Honourable Supreme Court in **National Bank of Pakistan v. Mian Aziz-ud-Din and others (1996 SCMR 759)**, wherein the legal distinction between the period governing the first execution application and the outer limit prescribed under Section 48, C.P.C. was reaffirmed. Thus, the appellant cannot seek shelter under Section 48, C.P.C. to contend that the first execution application could be filed within six years, much less after an unexplained delay exceeding twelve years.

17. The same principle was applied by this Court in **Hassan Khan Durrani v. Mehboob Khan (1987 CLC 2185)**, wherein it was held that after omission of Article 182 from the Limitation Act, the first application for execution of a decree, other than a decree falling within Article 183, is governed by the residuary Article 181. Section 48, C.P.C. merely prescribes an outer limit for subsequent applications and does not provide an independent period of limitation for the first application.

18. Likewise, in **Habib Bank Limited v. Remifar (Pakistan) Limited (PLD 2000 Karachi 46)**, this Court examined the applicability of Articles 181 and 183 of the Limitation Act to execution applications and held that where this Court exercises District Court jurisdiction, rather than its ordinary original civil jurisdiction, Article 183 is not attracted. In such circumstances, the first application for execution is governed by Article 181,

prescribing a period of three years. The Court further observed that Section 5 of the Limitation Act had not been extended to applications for execution of decrees.

19. The distinction between the ordinary original civil jurisdiction of this Court and its jurisdiction as a District Court was also considered by the Honourable Supreme Court in **Mian Akbar Hussain v. Aisha Bai (PLD 1991 SC 985)**. It was held that, while deciding suits within the pecuniary jurisdiction of the District Courts at Karachi, this Court exercises District Court jurisdiction and not its ordinary original civil jurisdiction. Consequently, Article 183 of the Limitation Act cannot be invoked merely because the decree has been passed by this Court.

20. The learned Single Judge has also referred to the judgment in **Pakistan Atomic Energy Commission v. M.S. Khalid (PLD 1994 Karachi 317)** while examining the distinction between Articles 181 and 183 of the Limitation Act. The principle emerging from the aforesaid authorities is that the applicable limitation period is determined by the nature of jurisdiction exercised by the Court while passing the decree and not merely by the designation of the Court itself. In the present case, the suit was instituted under the special banking legislation and the decree was passed in the exercise of the jurisdiction conferred by that legislation. The appellant, therefore, cannot claim the benefit of Article 183 merely on account of the fact that the decree was passed by this Court.

21. The appellant's further contention that the promulgation of the Ordinance of 2001 interrupted or extinguished the running of limitation is also without force. The decree had already been passed on 01.03.2001 and the right to seek its execution had accrued to the appellant on that date. The subsequent promulgation of the Ordinance did not suspend the operation of the law of limitation, nor did it provide a fresh starting point for calculating the limitation period. The transfer contemplated by Section 7(6) was confined to pending proceedings and could not

be extended to a decree which had already attained finality before the Ordinance came into force.

22. In this regard, the decision in **National Bank of Pakistan v. M/s. Fakir Shipping Mills (1998 CLC 812)** and the principle recognized by the Honourable Supreme Court in **Khalid Qureshi and others v. United Bank Limited (2001 SCMR 103)** are also relevant, insofar as they recognize that a subsequent legislative enactment cannot be construed to revive a remedy which had already become barred or to take away rights accrued to the opposite party by operation of limitation, in the absence of clear legislative language.

23. We are also guided by the judgment in **Habib Bank Limited v. M/s. Five Star Travels and others (2006 CLD 1396)**, wherein the Lahore High Court, while considering the execution of a decree passed under the Act of 1997, held that the first execution application was governed by Article 181 of the Limitation Act and that Section 48, C.P.C. did not afford an additional period of six years for filing the initial application. It was further held that where the first application had not been filed within three years, a subsequent application could not be saved by invoking Section 48, C.P.C. The said reasoning supports the view adopted by the learned Single Judge in the present matter.

24. Applying the above principles to the facts of the present case, the decree was passed on 01.03.2001, whereas the execution proceedings were initiated only in April 2013. The period prescribed under Article 181 had, therefore, expired long before the appellant approached the Court for execution. The subsequent promulgation of the Ordinance of 2001, which came into force on 30.08.2001, did not revive the remedy or provide a fresh period of limitation. The appellant has also failed to identify any provision of the Ordinance which expressly exempts the decree in question from the operation of the law of limitation.

25. It is a settled principle that the law of limitation cannot be circumvented by invoking a subsequent procedural enactment where the right to seek the remedy has already become barred.

The purpose of the Ordinance of 2001 was to introduce a more effective and expeditious mechanism for recovery of finances and execution of decrees passed by Banking Courts. Such legislative object, however, cannot be employed to disregard the express transitional provisions or to confer retrospective operation upon a provision which does not provide for revival of time-barred remedies.

26. In view of the foregoing discussion, we are of the considered opinion that the learned Single Judge has correctly appreciated the relevant statutory provisions and the applicable principles governing limitation for execution of decrees. The impugned order does not suffer from any illegality, misreading or non-reading of the relevant provisions of law warranting interference by this Court in its appellate jurisdiction. The contentions raised on behalf of the appellant are without substance and do not provide any lawful basis for setting aside the impugned order.

27. Consequently, this appeal, being devoid of merit, is **dismissed**, and the impugned order dated 05.12.2013 is hereby **maintained**. There shall be no order as to costs. These are the reasons for our short order dated 04.11.2026.

JUDGE

JUDGE

KAMRAN/PS