

THE HIGH COURT OF SINDH KARACHI

Phone No.021-99203220

Fax No.021-99203221

No.GAZ/Xii.Z.14 (2020)

Karachi dated: 23rd September, 2020

All
Communications
should be
addressed to
the REGISTRAR
HIGH COURT
OF
SINDH KARACHI
and not to any
official by name

From:

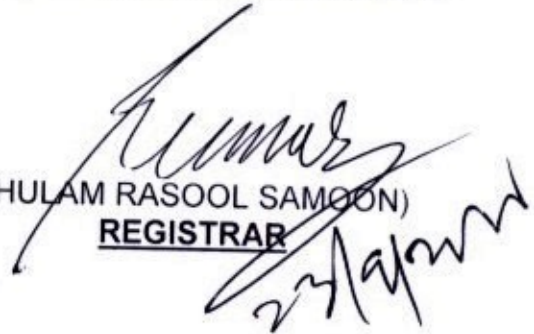
The Registrar,
High Court of Sindh,
Karachi.

To,

All the District & Sessions Judges in Sindh

Subject: CIVIL PETITION NO.1130 OF 2018
Muhammad Aslam
Versus
Bashir Hussain and others

I am directed to enclose herewith a copy of letter No.C.P.1130/2018-SCJ dated 09-9-2020 alongwith order dated 05-08-2020 of Hon'ble Supreme Court of Pakistan passed in the above cited case in the terms stated therein for information and circulation to Judicial Officers within your district for compliance of Court's order.


(GHULAM RASOOL SAMOON)
REGISTRAR

Encl: As above

Copy forwarded to Assistant Registrar (IMP), Hon'ble Supreme Court of Pakistan, Islamabad for information with reference to his above referred letter.

Ph: 9214461

Fax: 9220406

DATE

2445
12/9/2020

REGISTERED

No. C.P.1130/2018- SCJ

SUPREME COURT OF PAKISTAN

Islamabad, dated 09-9-2020

From The Registrar,
Supreme Court of Pakistan.
Islamabad.

To

1. The Registrar,
Islamabad High Court,
Islamabad.
2. The Registrar,
Lahore High Court,
Lahore.
3. The Registrar,
Peshawar High Court,
Peshawar.
4. The Registrar,
High Court of Balochistan,
Quetta.
- ✓ 5. The Registrar,
High Court of Sindh,
Karachi. 40 DRK

INWARD TO 8806
BRANCH R/O
DATE 10/9/2020
HIGH COURT OF SINDH AT KARACHI

Subject: CIVIL PETITION NO. 1130 OF 2018

Muhammad Aslam
Versus
Bashir Hussain and others

**On appeal from the Judgment/Order of the Peshawar High Court,
Abbottabad Bench, Abbottabad dated 19/02/2018 in W.P. 35-A/2018.**

Dear Sir,

I am directed to enclose herewith a certified copy of the Order of this Court dated 05/08/2020 **dismissing** the above cited case in the terms stated therein for information and further necessary action.

The operative part of the order reproduced as hereunder:

"We have noted with great concern and it is also shocking to observe that execution of decrees of Civil Courts especially the Family Courts and the Rent Controllers are unnecessarily prolonged by the judgment debtors, by filing frivolous and vexatious applications just prolong the execution of decrees and prolong the agonies of the decree holders and deprive them to reap the fruits of their decree in time. Executing Courts should be more vigilant in such like situations. Such like frivolous applications, appeals and revisions should be dealt with

Mr. Nadeem

12/09/2020

Sent to M/P.

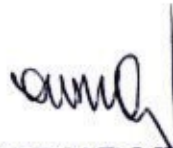
→ 2/1)

expeditiously in shortest possible time strictly in accordance with law. The District Judges, within their domain, have to keep a strict check on such like situations. Protracted, prolonged and avoidable litigations have raised many questions on our judicial system and we think that being part of the system, we all are responsible for this gloomy situation and it is the time that we all should realize our responsibilities.

Please acknowledge receipt of this letter along with its enclosure immediately and circulate above cited directions to the all the subordinate Courts with in their domain.

Encl: Order:

Yours faithfully,



(MUHAMMAD MUJAHID MEHMOOD)
ASSISTANT REGISTRAR (IMP)
FOR REGISTRAR

100 - 63/20

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE MAZHAR ALAM KHAN MIANKHEL
MR. JUSTICE QAZI MUHAMMAD AMIN AHMED

Civil Petition No.1130/2018

(Against the order dated 10.01.2018 passed by the Peshawar High Court, Abbottabad Bench in W.P. No.35-A/18)

Muhammad Aslam

...Petitioner

VERSUS

Bashir Hussain and others

...Respondents

For the Petitioner: Malik Muhammad Asif, ASC

For the Respondents: N.R.

Date of hearing: 05.08.2020

ORDER

Mazhar Alam Khan Miankhel, J.- The petitioner seeks leave to appeal against the judgment dated 10th January, 2018 rendered by the learned single Judge-in-Chambers of the Peshawar High Court, Abbottabad Bench whereby, writ petition of the petitioner was dismissed in *limine* against the dismissal order of his appeal dated 28th September, 2017 by Additional District Judge, Mansehra.

2. We have heard the learned counsel for the petitioner and have gone through the record of the case.

The record of the case would reveal that Respondent No.4 was successful in getting a decree in her favour by a Family Court vide its judgment and decree dated 27th April, 2006 wherein a house comprising one room a/w 07 marlas land in lieu of her dower was also decreed in her favour which attained finality as no appeal was

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Court Associate
Supreme Court of Pakistan
Islamabad

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filed by Respondent No.7-Muhammad Safdar (her husband) against the same. She got the possession of house through Baliff of Court on 28th September, 2010 and her execution petition after being fully satisfied was consigned to record room on 12th October, 2010.

During the execution proceedings, her mother-in-law (mother of present petitioner) filed an objection petition before the Executing Court which ultimately was dismissed on 24th September, 2010 and said dismissal was also upheld by the Appellate Court vide its judgment/order dated 16th March, 2011. The family of Respondent No.7 still not accepting and absorbing the situation, tried to create further complications in the matter when father-in-law of Respondent No.4 (father of present petitioner and Respondent No.7), vide mutation No.10174 attested on 20th October, 2011, transferred all of his property in the name of present petitioner.

3. Though Respondent No.4 had got physical possession of the property on the strength of a decree of Family Court in her favour but for the revenue record of said property, she was alien and after attestation of mutation No.10174 *ibid*, the recorded owner was Muhammad Aslam, present petitioner. She, when confronted with the given situation, once again approached the Executing Court by way of a miscellaneous application to get her property incorporated in the revenue record in her name. The learned Family Judge once finally deciding the matter and consigning the execution petition to record room had become *functus officio*, so, questioned the maintainability of the application *ibid* and fixed the matter for arguments on maintainability. Record of the case would reveal that during pendency of the said application, the revenue officials realizing their deficiency and fault, made corrections in the Record of Rights, within their competence, in the light of judgment and decree dated 27th

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Court Associates

Supreme Court of Pakistan

Islamabad

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April, 2006 of the Family Court. For that they initially entered and attested a mutation bearing No.10440 dated 27th June, 2012 and then entered and attested yet another mutation bearing No.10441 dated 27th June, 2012 in the name of Respondent No.4-Mst. Sobia, the decree holder. After attestation of the said mutations in her name, she withdrew her miscellaneous application, referred to above, which was dismissed as withdrawn vide order dated 5th June, 2013. This order of withdrawal was questioned by the petitioner by way of an appeal which was dismissed with a cost of Rs.10,000/- and this dismissal was upheld by the learned Judge-in-Chambers of the Peshawar High Court, Abbottabad Bench vide impugned judgment dated 10th January, 2018.

4. Learned counsel for the petitioner tried to make out a case for interference and our indulgence but he was unable to point out any discrepancy or irregularity in the findings of fora below. For the purposes of Family Court's decree *ibid*, which was correctly and legally implemented by correction of revenue record, petitioner was totally an alien and outlander to the proceedings of Family Court. Courts below have properly considered and appreciated the matter and there is no occasion for us to intervene. Hence this petition, being meritless, is dismissed and leave refused.

5. We have noted with great concern and it is also shocking to observe that execution of decrees of Civil Courts especially the Family Courts and the Rent Controllers are unnecessarily prolonged by the judgment debtors, by filing frivolous and vexatious applications just to prolong the execution of decrees and prolong the agonies of the decree holders and deprive them to reap the fruits of their decrees in time. Executing Courts should be more vigilant in such like situations. Such like frivolous applications, appeals and

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Supreme Court of Pakistan
Islamabad



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revisions should be dealt with expeditiously in shortest possible time strictly in accordance with law. The District Judges, within their domain, have to keep a strict check on such like situations. Protracted, prolonged and avoidable litigations have raised many questions on our judicial system and we think that being part of the system, we all are responsible for this gloomy situation and it is the time that we all should realize our responsibilities.

Sd/- J
Sd/- J

Bench-III
Islamabad.
5th August, 2020
NOT APPROVED FOR REPORTING
Nasir Khan/-

Ans
21/8/20



Certified to be True Copy

Nasir Khan
9/9/2020
Court Associate
Supreme Court of Pakistan
Islamabad