

Form No.HC.JD/C-121
ORDER SHEET

IN THE LAHORE HIGH COURT,
RAWALPINDI BENCH, RAWALPINDI
JUDICIAL DEPARTMENT

Execution Petition No.01 of 2024

Askari Bank Limited **Versus** M/s. Khawaja Flat Glass Industries
(Private) Limited, etc.

Sr. No. of Order/ Proceeding	Date of Order/ Proceeding	Order with Signature of Judge, and that of parties or counsel, where necessary
------------------------------------	---------------------------------	---

18.12.2024 Syed Ishtiaq Haider, ASC, Saleem Raza and Syed Afraz Naqvi, Advocates for decree-holder with Ali Mohammad Khan, Group Head, Askari Bank Ltd. Liaqat Mehmood Balt and Omer Ali Mehmood, Regional Head.
Ms. Shahina Akbar, Advocate for the decree holder in Ex.P. No.02 of 2010 with Parveen Zareen, Manager, First Women Bank, Al-Amin Plaza, Rawalpindi.
Barrister Zulfiqar Ali Shah and Luqman Ali Sipra, Advocates for the judgment debtor(s) with Khawaja Ahmad Kamal, CEO, Khawaja Flat Glass Industries (Pvt.) Ltd.
Sh. Ahsan-ud-Din, ASC Court-Auctioneer.
Mr. Ahmad Nawaz Khan, Advocate/Court Auctioneer.
Mr. Muhammad Osman Khan, Assistant Advocate-General on Court’s call.
Mr. Mohammad Ahmad, Advocate on Court’s call.

This Court aims to resolve the issues of long-standing recovery of debt liability and complex legal problems to achieve purposive justice in this execution petition as well as in Execution Petitions No. 02 of 2024, 03 of 2024 and 02 of 2010 on behalf of the Banks, i.e. (1) Askari Bank Limited and (2) First Women Bank Limited (the “decree-holder/Banks”) against Khawaja Flat Glass Industries (Pvt.) (the “judgment-debtor/ company”). This exercise will be accomplished through a legal heuristic approach to resolve

Execution Petition No.01 of 2024

the commercial/banking disputes and the legal problems by the Court based on practical judgments rendered therein which provide three general perspectives in law i.e. ***Purposiveness, Justice and Legal Certainty*** under the prevailing Laws including Section 19 of the Financial Institutions (Recovery of Finances) Ordinance, 2001 (the “Ordinance”); Rules 3 and 4 of the Financial Institutions (Recovery of Finances) Rules, 2018 (the “Rules”); Order XXI Rule 1 of the Code of Civil Procedure, 1908; the Corporate Restructuring Companies Act, 2016; the Corporate Rehabilitation Act, 2018; and the High Court Rules and Orders Volume-V. In this approach, the Court acts as *loco parentis* taking on a protective and supervisory role to ensure the proper resolution of the commercial and banking debt disputes, while safeguarding the rights and interests of all parties involved.

2. The **Heuristic Approach** is a legal framework for solving legal problems that has been developed with the judicial anthology of the “**Five R’s**” methodology i.e. (1) Recovery (2) Restructure (3) Renewal/Revival (4) Resurrection and (5) Resolution through mediation. This methodology is based on practical experience, knowledge, and quick fixes to resolve debt recovery issues in a timely manner in compliance of the judgment passed by the Hon’ble Mr. Justice Yahya Afridi of the Supreme Court of Pakistan (now the Chief Justice of Pakistan) reported as “**FIRST DAWOOD INVESTMENT BANK LTD. versus BANK OF PUNJAB through President, Lahore**” (PLD 2022 SC 769) wherein it has been held that the debt is substantially disputed, then to continue with the winding up proceedings would be an abuse of process of the court. This Court is

Execution Petition No.01 of 2024

adopting the approach of **revival/restructuring** of the Company in accordance with the principle enunciated in the judgment delivered by Hon'ble Justice Ayesha A. Malik of the Supreme Court of Pakistan reported as “Messrs. KHALID SIRAJ TEXTILE MILLS LIMITED LAHORE and others versus ADDITIONAL REGISTRAR OF COMPANIES, SECURITEIS AND EXCHANGE COMMISSION OF PAKISTAN and another” (2022 CLD 1557) wherein it has been held that “*The very fact that the SECP opted to ignore the **revival** plan reflects on their unnecessary focus on winding up the company rather than working on the **revival of the company’s** business. In this regard, we note that the SECP must protect the interests of the shareholders of the company and more so where the SECP seeks winding up of company, at its own instance. It must consider all relevant facts and record and if there is a chance of avoiding winding up then it should consider that option rather than push for winding up. It is in the public interest that businesses are encouraged. So the commercial operations of a business must be preserved and protected such that it is able to revive itself when faced with financial hardships.*” This view has also been strengthened by this Court in the judgments reported as “INVESTMENT CORPORATION OF PAKISTAN and others Versus SUNSHINE JUTE MILLS LIMITED” (2005 CLD 713) and Saudi Pak Industrial & Agricultural Investment Company Ltd. v. Chenab Limited (2020 CLD 339) wherein it has been held that it is an admitted fact that the Company was one of the leading Unit in the country and its winding up will amount to economic death not only of the Company but also all its employees. In developing countries like Pakistan, the judicial forums

Execution Petition No.01 of 2024

should provide opportunities to the sick industries to revive and to restart their business at full pace and to pay off and settle their debts and other liabilities, especially when the banks are also willing to do so and have no objection to do so in this regard.

3. Pursuant to the order dated 17.12.2024, Khawaja Ahmad Kamal, CEO of Khawaja Flat Glass Industries (Pvt.) Ltd. appeared and submitted that to resolve the issue and make the judgment debtor/Company a running concern, they are willing to settle the financial disputes with both the decree-holder banks by adopting the debt recovery approach recognized by this Court through **restructuring and dispute resolution via mediation**. Learned counsel for the decree holder / banks have conceded to the same.

4. Learned counsel for the decree-holder banks unanimously consented that Askari Bank Limited shall assume the primary role in facilitating and supervising the restructuring process pertaining to both execution petitions. Whereupon, Mr. Ali Mohammad Khan, Group Head of Askari Bank Ltd. submitted that the decree-holder banks are unanimously prepared to devise a scheme of arrangement for the **restructuring of the company** in light of the aforesaid judgments and all the applicable laws. He presented their proposal, outlining three (03) scenarios, which reads as follows:

Scenario-I	REVIVAL	Payable amount Rs.533.410 M immediately Due	Remaining by March 2029
Scenario-II	RESTRUCTURING	Payable Amount Rs.501.095 M Immediately Due	Remaining by March 2029
Scenario-III	RECOVERY	Payable Amount Rs.2,278.199 M Immediately Due	

Execution Petition No.01 of 2024

He also submitted certain documents and charts detailing the installment dates, amounts, and previous (unsuccessful) proposals along with the current one, all of which are taken on record. He further stated that if the proposed process fails, the decree-holder banks will proceed against the judgment debtor(s) through execution proceedings under Section 19 of the Ordinance.

5. Since the situation has been changed after the decree of the suit, the decree-holder/banks have shown their willingness to restructure the debts of the Company; in view of the Scheme of Arrangement, Restructuring Plan, joint statement and other documents submitted by the Parties; and the interest of the creditors, contributors and public, there appears to be no other option to **revive/restructure the Company**.

6. At this juncture, Barrister Zulfiqar Ali Shah, Advocate for the judgment debtor(s)/Company alongwith Khawaja Ahmad Kamal, CEO of Khawaja Flat Glass Industries (Pvt.) Ltd. sought time to submit their undertakings supported by affidavit(s), along with comprehensive details of the mortgaged properties (whether sold or alienated) in the light of Chenab's judgment of **(2020 CLD 339)**.

7. In view of above, this Court directs all parties to convene a meeting to discuss and finalize a mutually agreeable restructuring plan in the light of aforesaid judgment, on 10.01.2025 at 11:00 AM, with all parties and their representatives/counsel. To facilitate the process, this Court appoints **Mohammad Ahmad, Advocate High Court**, Lower Ground Floor (CK), Ali Plaza, Plot 1-E, F-6/4, Jinnah Avenue, Blue Area, Islamabad **(0321-4224870)**, as **Coordinator/Mediator** to supervise and assist in these

Execution Petition No.01 of 2024

deliberations. The parties shall work toward finalizing the restructuring plan and scheme of arrangement in line with the intentions expressed before this Court. Parties will seek guidance from the relevant paragraph of the aforesaid Chenab's case (**2020 CLD 339**), which reads as under:

34. Accordingly, in view of the above case law and applicable provisions of the law, particularly Sections of the Act and the Rules, the prayer of the Applicants for interim relief is accepted, and the Company is temporarily allowed, till the disposal of the main application, to resume the commercial operation and the Production Units of the Company. As per undertaking made by the Applicants in writing today and confirmed by official liquidators, production units shall be managed by the Ex-Management of the Company, including Mian Muhammad Latif (Ex-Chief Executive Officer) and Mian Muhammad Naeem (Ex-Director) after consultation with the JOLs and the nominee of Habib Bank Limited (Lead Bank) in the following manners:

- (a) steps shall be taken for rehabilitation and operations of the Company and its Production Units;*
- (b) necessary staff, labour and employees shall be hired for the said purposes;*
- (c) commencement and undertaking of business operations;*
- (d) Books of Accounts of the Company shall be maintained in accordance with the law;*

Execution Petition No.01 of 2024

- (e) *the operations of banks accounts of the Company shall be allowed for meeting the expenses related to the above purposes as well as for running the affairs of the Company;*
- (f) *RSM Avais Hyder Liaqat Nauman & Co. (Chartered Accountants) will look after the financial affairs of the Company; and*
- (g) *The Company shall keep this Court informed of the developments in operations of the Company by filing monthly statements through the official liquidators and finalization of the Rescheduling Plan and the Scheme of Arrangement.*

8. At this stage, Sh. Ahsan-ud-Din, ASC, appeared and submitted that there is another aggrieved party whose property has been pledged by the banks but not redeemed, however, sought time to file a proper application.

9. It is pertinent to mention here that this Court vide order dated 25.03.2024 appointed Sh. Ahsan-ud-Din, ASC and Syed Mudassir Nazir Naqvi, Advocate as Court Auctioneer in Execution Petition No.02 of 2010 for auction of the property(s) involved in these cases. Whereupon, they submitted a proposed schedule of auction through C.M. No.449-C of 2024, which was disposed of vide order dated 07.05.2024, in the following manner:

This application has been filed by the Court Auctioneer for approval of the proposed schedule of auction, detail of which is given in para-6 of this application, alongwith related documents

Execution Petition No.01 of 2024

attached with this application, on the touchstone of the principles already settled by this Court in the case of Faysal Bank Limited versus Haris Steel Industry (Pvt.) Limited (2023 CLD 44), in which entire procedure regarding speedy and effective auction of a property has been vastly discussed by ignoring all the irrelevant objections which are also not in consonance with the provisions of relevant law. He submits that aforesaid principles have also been discussed by a Division Bench of this Court in the case of Humaira Mehboob versus Summit Bank Limited and others (2023 CLD 525).

*2. In view of the above, the proposed schedule of auction alongwith the related documents (attached with this application) is approved and the Court Auctioneer is allowed to proceed with the auction proceedings according to this schedule. **Disposed of.***

10. It is also important to mention here that on 26.06.2024, Syed Ishtiaq Haider, ASC for decree holder bank requested for appointment of a Court Auctioneer to proceed with execution of the decree. The request was allowed and Mr. Ahmed Nawaz Khan, Advocate was appointed as Court Auctioneer at a total fee of Rs.200,000/- to be paid by the Decree Holder Bank for auction of the mortgaged properties in this Execution Petition as well as the (connected) Execution Petitions No.02 and 03 of 2024.

11. Today, Mr. Ahmad Nawaz Khan, Advocate/Court Auctioneer, submitted that he visited the site(s) of the judgment debtor(s) with the consent of the decree-holder

Execution Petition No.01 of 2024

Banks through Professional Valuers and sought time to submit his report. He further requested payment of his remuneration/fee. The decree-holder Banks are directed to ensure the payment of his remuneration/fee accordingly.

12. In view of above, this Court shall adopt a heuristic legal approach to facilitate the restructuring of the judgment debtor company. However, in the event of failure to achieve a resolution, the Court shall proceed with the auction of the mortgaged properties to ensure expeditious recovery of the outstanding liabilities, without any further delay.

13. To come up for progress report on **14.01.2025**.

(JAWAD HASSAN)
JUDGE

ZIA.UR.REHMAN