

**JUDGMENT SHEET.**  
**ISLAMABAD HIGH COURT, ISLAMABAD,**  
**JUDICIAL DEPARTMENT.**

**F.A.O No.03 of 2025**

**Jamila Munawar**  
**Vs.**  
**Wali Ullah**

Appellant by: Mr. Waqar Ahmad, Advocate.

Respondent: In person.

Date of Hearing: 24.04.2025.

**INAAM AMEEN MINHAS, J:-** Through the instant appeal, the appellant has assailed the order dated 21.11.2024 (**“Impugned Order”**), passed by the learned Civil Judge, Islamabad (**“Executing Court”**) in an execution petition, whereby application filed by the appellant to review the order dated 29.06.2024 was dismissed.

2. The facts, in brief, are that respondent filed a recovery suit u/o XXXVII, Rule 3, CPC against the appellant’s deceased husband, which was decreed on 29.09.2018. Executing proceedings were initiated thereafter. During these proceedings, the appellant informed the Court and filed an application about the death of her husband/judgment debtor and sought abatement of the execution proceedings, which was dismissed. Husband of the appellant was employee of Pakistan Public Works Department (**“PWD”**). On 29.06.2024 the learned Executing Court directed the appellant, being legal heir of the judgment debtor/deceased to return the amount of Rs.433,138/- and Rs.50,353/- to the decree holder/respondent in compliance of the order dated 20.03.2021, against which the appellant filed an application to

recall/review the same, which was dismissed through the Impugned Order, hence, this appeal.

3. The learned counsel for the appellant contended that findings of the learned Executing Court are contrary to law and facts as it failed to appreciate that the appellant as a legal heir is only liable to the extent of assets inherited; that the appellant had already cleared the deceased's debts from inherited amounts and personal resources, leaving no estate behind; that the learned Executing Court misapplied Islamic inheritance principles by holding the appellant personally liable disregarding the priority of funeral expenses and debt repayment from the estate of the deceased; that the appellant's age, health and limited means were also overlooked and that the Impugned Order is arbitrary, mechanically passed and amounts to miscarriage of justice due to misinterpretation of the decree and execution proceedings.

4. Respondent in person submitted that the execution petition is being delayed by the appellant/judgment debtor and prayed for dismissal of the instant appeal.

5. I have heard the arguments and perused the record.

6. Perusal of the record reveals that a money decree of Rs.1100,000/- was passed on 29.09.2018 against deceased husband of the appellant Rana Munawar Hussain in favour of the respondent. To execute the decree, the respondent filed an execution petition on 20.10.2018. The respondent being decree holder filed an application for attachment of service benefits of the deceased husband of the appellant, which was partially allowed vide order dated 20.03.2021. During the

execution proceedings husband of the appellant passed away, who was employee of PWD. Following the death of the judgment debtor/husband of the appellant, she was treated/impleaded as the judgment debtor in the execution proceedings, who filed an application on 19.04.2023 raising objections to the order dated 20.03.2021 on the ground that the PWD has violated the order dated 20.03.2021, whereby the PWD department was directed only to attach the properties being part of Tarka of the deceased but the said department illegally attached the funds, benevolent funds, marriage grant, family pension, cash payment in lieu of plot, etc.

7. The said application was disposed of by the learned Executing Court vide order dated 29.06.2024 while observing that the arrears of salaries amounting to Rs.433,138/- and final payment of GP Fund of Rs.50,353/- having already received by the appellant are to be returned to the decree holder in compliance of order dated 20.03.2021. Thereafter, the appellant filed an application against the said order on the ground that the said amount was distributed among various creditors to settle the deceased's liabilities, which aligns with Islamic Inheritance principles that priorities the repayment of a deceased person's debts before distributing any inheritance.

8. It is admitted that the execution proceedings for recovery of the decretal amount have been pending since 2018 against the original judgment debtor, who has since passed away. After his death, the appellant being his legal heir was fully aware of the decree's existence and the ongoing execution proceedings. Despite the knowledge, she

received certain amounts from PWD, even though the learned Executing Court had passed a clear and specific order on 29.06.2024 directing that such an amount be returned to the respondent for the satisfaction of the decree. Instead of complying with this order, the appellant retained the money and later applied to recall the order claiming that she had used the funds to repay various creditors of the deceased to settle his outstanding liabilities, which amounts to non-compliance with judicial orders. The appellant having knowledge of the legal proceedings and the binding nature of the learned Executing Court's directives cannot justify unilateral action on her part without first seeking appropriate legal permission. This conduct constitutes a breach of execution process, therefore, the learned Executing Court rightly dismissed the appellant's application through the Impugned Order.

9. In view of the above discussion, the instant appeal lacks merit and is therefore **dismissed.**

**(INAAM AMEEN MINHAS)**  
**JUDGE**

**Announced in open Court on 19.05.2025**

**JUDGE**