

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

Civil Revision No.14/2019.

Syed Muhammad Jawad Alam Vs. Bank Alfalah Limited.

Petitioner by: Mr. Muhammad Shahid Kamal,
Advocate.

Respondent by: Mr. Raheel Sikandar, Advocate.

Date of Decision: 02.03.2020.

MOHSIN AKHTAR KAYANI, J:- Through this civil revision petition, the petitioner has assailed the order dated 15.11.2018, passed by learned Civil Judge (West) Islamabad, whereby his application for return of power of attorney of Bank Alfalah/respondent was dismissed.

2. Learned counsel for the petitioner contends that the petitioner filed a suit for recovery of Rs.766.994 million on the basis of wrongful dismissal from Bank Alfalah; that during the course of proceedings, the respondent filed power of attorney and board resolution (passed in 36th meeting by Board of Directors of Bank Alfalah Limited on 25.03.2001) attested by the Company Secretary/petitioner; that the petitioner filed an application for return of power of attorney of respondent and requested for initiation of ex-parte proceedings against the respondent bank, which is body corporate and has not complied with terms of Order XXIX CPC mainly on the ground that Board of Directors passed the resolution on 25.03.2001 for limited period/time frame and after expiry of that tenure, the power of attorney ceases to exist and cannot be used for further legal action. Learned counsel for the petitioner in support of his arguments has relied upon *2014 CLD 415 SC (Telecard Limited through Authorized representative vs. Pakistan Telecommunication Authority through Chairman) & 2015 CLD 1754 [Peshawar] (Messrs One 2 One Solutionz (Pvt.) Ltd. vs. The Postmaster General Khyber Pakhtunkhwa and 2 others)*.

3. Conversely, learned counsel for the respondent bank contends that resolution once passed by the Board of Directors has legal effect and the same cannot be withdrawn despite change of Board of Directors unless the assigned

duties stand completed and plea taken by the petitioner is not justified under the law. Learned counsel for the respondent has relied upon *2004 CLC 1334 [Lahore] (Haji Saghir Ahmed vs. United Bank Limited)*, *1982 CLC 1275 [Lahore] (Khyam Films and another vs. Bank of Bahawalpur Ltd.)*, *2011 CLD 1062 [Karachi] (Tahir Anees vs. Messrs Citi Bank N.A.)* & *2008 CLC 1057 [Karachi] (Javedan Cement Limited through Chief Operating Officer vs. Province of Sindh through Member, Land Utilization Department, Board of Revenue and 3 others)*.

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

5. Perusal of record reveals that the petitioner filed an application against the respondent bank in suit for recovery of Rs.766.994 million on the basis of wrongful dismissal from Bank Alfalah on the ground that the respondent bank filed power of attorney without board resolution of Board of Directors, which is violation of Order XXIX Rule 1 CPC. The said application was dismissed by learned Trial Court vide impugned order dated 15.11.2018. I have gone through the application filed by the petitioner, wherein following ground has been raised:-

“3. That the power of attorney on behalf of body corporate or juristic person can only be signed by any person specifically authorized by the Company through its Boards of Directors and Resolution in this Behalf must be attached with the power of attorney to the advocate.

4. That the defendant has filed power of attorney in this Honourable Court without any resolution by the Board of Directors of the defendant bank, which is clear cut violation of Order 29 Rule 1 CPC and the dictums of the Superior Courts in this behalf.

5. That the power of attorney without Board Resolution is unauthorized and cannot be placed on the file.”

6. The application has been contested by the respondent bank, whereby the bank has taken categorical stance that it has specifically authorized its officer through resolution passed by the Board of Directors in 36th meeting on 25.03.2001 and appointed attorney on 01.12.2007 to appear and to do the act on behalf of bank as such the resolution appended by the petitioner alongwith civil suit clearly spells out that Chief Executive Officer or any other Director of the Bank are authorized to sign standard power of attorney for operational requirements, even power of attorney appended with this petition clearly reflects that the bank has authorized its

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Chief Executive Officer and other Directors to initiate any legal action as such respondent bank has fulfilled the minimum requirement of Order XXIX CPC.

7. The ground raised by the petitioner before this Court is different from the ground raised before learned Trial Court, especially that after expiry of tenure of Board of Directors their authorization ceases to exist is an afterthought and the same cannot be acknowledged at this stage. The minimum requirements of Order XXIX CPC are reflected from the record and the authorization cannot be objected on artificial ground raised by the petitioner as legal sanction of Board of Directors through resolution is available on record.

8. In view of the above reasons, the instant civil revision petition does not bear any merits, therefore, the same stands **dismissed**. Learned Trial Court seized with the matter is directed to conclude the same within a period of 06 months from the date of receipt of copy of this judgment.

(MOHSIN AKHTAR KAYANI)
JUDGE

R.Anjam