

Form No: HCJD/C-121

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD  
(JUDICIAL DEPARTMENT)

W.P. No. 3177-2020

Humayun Gulzar

Versus

Muhammad Asif, etc.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	06-07-2021	Ms Zill E Huma, Advocate for petitioner. Mr Zulfiqar Ali Malik, Advocate for respondent.

Athar Minallah, C.J.- The petitioner has invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 assailing order, dated 14-03-2020, passed by the learned executing court.

2. The facts, in brief, are that a competent court had passed money decree, dated 20-05-2019 and pursuant thereto execution proceedings are pending. The learned executing court had passed the impugned order whereby application filed by the petitioner was accepted, subject to furnishing of a bank guarantee equal to the decretal amount.

3. The learned counsel has been heard at length. The learned counsel has stated that pursuant to a direction given by this Court, security has been furnished and, therefore, this petition has become infructuous. This argument is not tenable because the security was given as an interim arrangement. The learned counsel has further argued that the impugned order has been passed by exercising discretion in an arbitrary manner.

4. The learned counsel for the respondent on the other hand has contended that the petitioner is deliberately delaying the execution of the decree passed by a competent court. The learned counsel has further contended that the impugned order does not suffer from any legal infirmity.

5. The learned counsels have been heard and the record perused with their able assistance.

6. The petitioner has invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973. Admittedly, there is no jurisdictional error. Moreover, this Court is also satisfied that the discretion exercised by the learned executing court was not arbitrary or fanciful. Directing the petitioner to furnish a bank

guarantee by no stretch of the imagination can be treated as arbitrary or fanciful. This Court while exercising jurisdiction under Article 199 of the Constitution cannot interfere with the discretion exercised by an executing court lawfully and in accordance with law. The impugned order does not suffer from any legal infirmity requiring interference.

7. For the above reasons, this petition is without merit and is, therefore, accordingly dismissed.

(CHIEF JUSTICE)