

Form No: HCJD/C-121
ORDER SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Writ Petition No.2855 of 2021

Falak Sher.
VS
Mst. Shahzadi Bibi and 02 others.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
01.	11.08.2021	Mr. Muhammad Waqas Chatha, Advocate for the petitioner.

Through the instant petition, the petitioner has called in question judgment and decree dated 28.10.2020 and order dated 10.07.2021, passed by learned lower courts below.

2. Learned counsel for the petitioner, *inter-alia*, contends that the impugned judgment and decree has been passed ex-parte, even during pendency of the trial, service was not effected upon the petitioner and publication was issued, thereafter ex-parte order was passed and on the date when the petitioner was arrested during execution proceedings, he filed an application for setting aside ex-parte judgment and decree, which was dismissed and within a period of thirty days after dismissal of the application, an appeal before learned District Judge was filed, which was very well in time, it is also mentioned in the

impugned order dated 10.07.2021 that the impugned judgment and decree was passed on 07.06.2021 and the appeal was filed on 29.06.2021, which was well in time, hence the impugned order, judgment and decree are erroneous and not tenable under the law as material illegality can be seen floating on the surface of impugned order dated 10.07.2021, hence it is liable to be set-aside.

3. Points raised, need consideration.
Notice to the respondents.

4. Re-list in the next week.

C.M. No.01 of 2021.

Exemption sought for is allowed subject to all just and legal exceptions.

C.M. No.02 of 2021.

Notice.

(TARIQ MEHMOOD JAHANGIRI)
JUDGE