

For orders on office objection
For hearing of CMA 119/2023
For hearing of main case.

26.05.2025

Mr. Imdad Ali Unar, advocate for Applicant.

M/s Aamir Raza Dayo and Junaid Qalander Niazi advocates for the Respondent No.3.

Mr. Muhammad Yousuf Rahpoto Assistant AG.

J U D G M E N T

MIRAN MUHAMMAD SHAH, J.- I have heard all the counsels at length. Very short point of service upon the Applicant is involved which according to the Counsel was not done so in a proper manner and he remain unaware of the proceedings against him. He contends that law does not allow anyone to remain condemned unheard and such was the case in his matter.

2. Learned AAG who is representing the Government of Sindh through Deputy Commissioner Sanghar who was appellant in the Appellate Court states that service was very much held upon the Applicant and he was the signatory to the notice served upon him.

3. Learned Counsel for Respondent No.3 state that only their evidence was led and the present Applicant remained unheard. The present Applicant has since expired and now is represented in this matter by his son. The proposition is of simple nature and indeed law does not permit any one to go unheard merely on the issuance /non-issuance or receiving or non-receiving of the notice.

4. In such circumstances I am of the view that the present Applicant remained unserved and unheard during the proceedings filed u/s 12(2)

CPC and perhaps the Order was obtained in absence of the Applicants who were decree holders in the said case and the learned Trial Court had passed the Judgment in their favour, therefore, I hereby remand this case back to the Appellate Court i.e. Additional District Judge-I Tando Adam by setting aside the impugned Order dated 26.08.2023 passed by the Appellate Court.

Matter in the above terms stands disposed of.

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JUDGE