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IN THE HIGH COURT OF SINDH AT
KARACHI
Civil Revision No. 172 of 2021

1. Allahdino
2. Ilyas.
3. Arab.
4. Mst.Sakina.
5. Mst.Fatima.
6. Mst.Sara.
7. salemat.
8. Mst.Muradi.

27-10-2021
[Signature]
Dep. Registrar
466

All sons and daughters of late
Darya Khan adult, Muslim.
No.2 to 8 through their attorney
Allahdino s/o Darya Khan,
r/o Village Hafiz Channa tal:Sakro
District Thatta. -----Applicants

Vs.

1. H.E Shaikh Zaid Bin Sultan Al-Nahyan
Ruler of Dubai, U.A.E. since deceased
Through his son successor H.E.Shaikh Saif Bin
Zaid Al-Nahyan, to be served through
His attorney, namely,
Muhammad Shabbir Choudhry
s/o Choudhry Muhammad Jamil
House No.57/1, Street-5
Khayaban-e-Momin, Phase=V
DHA Karachi.
2. Province of Sindh,
Through Secretary, Board of Revenue
Sindh Secretariat, Karachi.
3. Deputy Commissioner,
Thatta.
4. Assistant commissioner Mirpur sakro Ghara.
5. Mukhtiarkar
Mirpur Sakro. -----respondents.



CIVIL REVISION UNDER SECTION 115 CPC

THE HIGH COURT OF SINDH AT KARACHI

Civil Revision Application No.172 of 2021

[Allahdino & Others vs. H.E. Shaikh Zaid Bin Sultan Al-Nahyan & Others]

Applicants : Allahdino & others
through Mr. Muhammad Ayoub
Chaniho, advocate

Respondent No.1 : H.E. Shaikh Zaid Bin Sultan
Al-Nahyan
through M/s. Syed Muhammad
Saulat Rizvi & Syed Muhammad
Mehdi, advocates

Respondents-1-3 : Mr. Jan Muhammad Khuhro,
Additional Advocate General

Date of hearing : 11-03-2025

Date of Judgment : 25-03-2025

JUDGMENT



Jan Ali Junejo, J: This Civil Revision Application has been filed to challenge the Judgment and Decree dated September 2, 2021 (hereinafter termed the "Impugned Judgment and Decree"), delivered by the IInd Additional District Judge, Thatta (referred to as the "Appellate Court") in Civil Appeal No. 37 of 2019. The Appellate Court, through this decision, upheld the Order dated February 23, 2019, issued by the Senior Civil Judge, Thatta (designated as the "Trial Court") in F.C. Suit No. 180 of 2018. The Trial Court's Order had rejected the plaint submitted by the Applicants/Plaintiffs under the provisions of Order VII Rule 11 of the Code of Civil Procedure (CPC), 1908.

2. The Applicants/Plaintiffs, claiming to be the legal heirs of Darya Khan, instituted F.C. Suit No. 180 of 2018, seeking the following reliefs:

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(a) a decree for cancellation of entries No.41 in the year 2011 in the name of defendant No.1 in respect of suit property and restoring the same in the names of heirs of late Darya Khan including the plaintiffs.

(b) A decree for possession partition of suit property to the plaintiff.

(c) A decree for mesne profit which have accrued on the property during the period from 2013 at the rate of Rs. 15,00,000/- per year for wrong full possession of suit land.

(d) A decree in the sum of Rs. 10,00,00,000/- as compensation for the damage of agricultural land by making duck in suit land.

(e) Permanent injunction restraining the defendant No.1, his agents and attorney from alienating the possession of suit land to anybody else or making further change in [sic]

(f) To award cost of suit.

(g) Any other relief as deemed fit and proper and in the ends of justice.



3. The case of the Applicants/Plaintiffs, as set out in the plaint, is that their predecessor, Darya Khan, was the owner of the suit land. In 1976, H.E. Shaikh Zayed Bin Sultan Al-Nahyan allegedly occupied a portion of the land without their consent and constructed a duck pond and a bungalow. It is claimed that despite repeated attempts, government functionaries failed to restore possession to them. They further alleged that H.E. Shaikh Zayed initially agreed to pay compensation but failed to

do so, and his successor, H.E. Shaikh Saif Bin Zayed Al-Nahyan, continued to enjoy the land without payment. They also alleged that fraudulent entries were made in the revenue record in 2011 in favor of Defendant No. 1. Respondent No. 1 filed an application under Order VII Rule 11 CPC, seeking rejection of the plaint on the grounds that it did not disclose a cause of action and was barred by limitation. The learned trial Court allowed the application and rejected the plaint, holding that the suit was hopelessly time-barred.

4. The Applicants/Plaintiffs filed Civil Appeal No. 37 of 2019 before the IInd Additional District Judge, Thatta, which was dismissed vide the impugned Judgment and Decree dated September 2nd, 2021. The learned Appellate Court upheld the trial Court's decision, finding no merit in the appeal.



5. The learned counsel for the Applicants/Plaintiffs, has argued that the trial court erred in rejecting the plaint under Order VII Rule 11 CPC without properly assessing whether relief could be granted even if the plaint's contents were taken as true. He further argues that the lower courts wrongly disregarded the entire plaint, relied solely on the defense's version, and rendered findings that were premature, baseless, and unsupported by any evidence. He asserts that the impugned orders are ultra vires, as they adjudicated the dispute on merits without recording evidence, thereby violating the principles of natural justice. He maintains that the trial court failed to consider binding Supreme Court precedents that invalidated land allotments in favor of UAE nationals, which would have directly affected Respondent No.1's claim. He also highlights that the applicants had submitted detailed written arguments supported by apex court case law, none of which was considered, effectively depriving them of a fair

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hearing. He argues that the appellate court mechanically endorsed the trial court's findings without independently evaluating the applicants' grounds, thereby committing a serious irregularity. He further contends that the courts below acted with bias in favor of Respondent No.1, failing to conduct an impartial inquiry based on revenue records and instead rendering an arbitrary decision. He asserts that the courts' finding—doubting the authenticity of a crucial letter based on incorrect assumptions regarding the UAE ruler's death—was speculative and prejudicial. He maintains that had the case proceeded to trial, the applicants would have succeeded on merits as the rightful owners of the suit land. He concludes that the summary rejection of the suit has resulted in a grave miscarriage of justice. In light of the above, the learned counsel prays that the Hon'ble Court set aside the impugned judgment and order, and remand the case for decision on merits after recording evidence, in the interest of justice.





6. Per contra, the learned counsel for the Respondent No.1 contends that the suit was clearly barred by limitation, as it was filed more than 30 years after the Applicants attained majority and over 40 years after the alleged occupation of the land. He argues that fraudulent entries in revenue records in 2011 do not create a fresh cause of action, as the Applicants were aware of the alleged occupation since 1976. He further asserts that the courts below rightly rejected the plaint under Order VII Rule 11 CPC, as it failed to disclose a valid cause of action. He maintains that the trial and appellate courts properly applied the law and did not decide the case on merits but only assessed whether the suit was maintainable. He contends that the Applicants' arguments regarding the alleged cancellation of land allotments in favor of UAE nationals are irrelevant, as no such claim was raised within the prescribed limitation period.

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He also argues that the Applicants failed to produce any evidence substantiating their claims, and their assertions are based on conjecture rather than legal merit. Lastly, he maintains that the courts below acted within their jurisdiction, and there is no procedural or legal infirmity in the impugned orders. The learned counsel prays that the Hon'ble Court dismiss the Civil Revision Application, as it lacks merit and is a futile attempt to revive a time-barred and baseless claim.

7. I have heard the learned counsel for the parties at length and have carefully perused the record, including the impugned Judgment and Decree, the Order of the learned trial Court, and the plaint filed by the Applicants/Plaintiffs. The primary question before this Court is whether the learned Courts below were justified in rejecting the plaint under Order VII Rule 11 CPC. Order VII Rule 11 CPC provides for the rejection of a plaint in the following cases:

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- (a) Where it does not disclose a cause of action.
 - (b) Where the relief claimed is undervalued, and the plaintiff fails to correct the valuation.
 - (c) Where the plaint is written on paper insufficiently stamped, and the plaintiff fails to supply the requisite stamp paper.
 - (d) Where the suit appears from the statement in the plaint to be barred by any law.



It is a settled principle of law that while considering an application under Order VII Rule 11 CPC, the Court must confine itself to the averments made in the plaint and the

documents filed along with it. The Court cannot consider the defense taken by the defendant. The plaint can be rejected only if the averments made therein, even if taken to be true, do not disclose a cause of action or if the suit appears to be barred by any law. In the present case, the learned trial Court rejected the plaint primarily on the ground that it was barred by limitation. The Trial Court noted that the alleged occupation of the land occurred in 1976, and the suit was filed in 2018, more than 40 years later. The Trial Court further noted that the Applicants/Plaintiffs were minors in 1976 but had attained majority several years before filing the suit. The Trial Court held that the suit was barred by the Law of Limitation. The learned Appellate Court upheld the trial Court's decision, agreeing that the suit was barred by limitation. The Appellate Court also noted that the title documents favored the Defendant (Respondent) No. 1 and that the transfer had occurred decades ago. After careful consideration, I am of the view that the learned Courts below have correctly applied the law and have rightly rejected the plaint under Order VII Rule 11 CPC. The suit filed by the Applicants/Plaintiffs is essentially for declaration of their title to the suit land, possession, and mesne profits. The alleged cause of action arose in 1976 when H.E. Shaikh Zayed Bin Sultan Al-Nahyan allegedly occupied the land. Even if the Applicants/Plaintiffs were minors at that time, they attained majority several years before filing the suit. Article 120 of the Limitation Act, 1908, establishes a six-year limitation period for filing a suit seeking a declaration when no specific time frame is provided elsewhere in the Schedule. Additionally, Article 142 stipulates a twelve-year limitation period for suits concerning the possession of immovable property, commencing from the date of dispossession or discontinuance of possession. In the present case, the suit was instituted more than 30 years after the Applicants/Plaintiffs



had reached the age of majority and over 40 years after the alleged occupation of the land. Consequently, the suit is evidently time-barred. The contention raised by the learned counsel for the Applicants/Plaintiffs, asserting that fraudulent entries made in the revenue records in 2011 constituted a fresh cause of action, is untenable. The Applicants/Plaintiffs were already aware of the alleged occupation of the land since 1976, and any fraudulent entries, if proven, would not extend the limitation period applicable to the original cause of action. The lower Courts have correctly determined that the plaint failed to disclose a valid cause of action and that the suit was barred by limitation. Therefore, the rejection of the plaint under Order VII Rule 11 of the Code of Civil Procedure (CPC) was fully justified.

8. It has also been observed that since the Applicants' title was disputed and placed under doubt, they were required to seek a declaration of ownership before claiming possession and permanent injunction. Without such a declaratory relief, the grant of these remedies is not legally permissible, as established by the Apex Court of Pakistan in *Province of the Punjab v. Ghazanfar Ali Shah* (2017 SCMR 172), *Sultan Mehmood Shah v. Din Muhammad* (2005 SCMR 1872), and *Muhammad Aslam v. Ferozi* (PLD 2001 SC 213). Furthermore, since the Applicants also sought the cancellation of Entry No.41 in the record of rights, it was mandatory for them to file a declaratory suit against the Respondent No.1, as required under Section 53 of the Land Revenue Act, 1967. Their failure to seek such a declaration in accordance with the statutory provisions renders their claim legally deficient.

9. The scope of revisional jurisdiction under Section 115 of the Code of Civil Procedure is limited. The High Court can



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interfere only if the subordinate court has: (a) exercised a jurisdiction not vested in it by law; or (b) failed to exercise a jurisdiction so vested; or (c) acted in the exercise of its jurisdiction illegally or with material irregularity. The Applicants have not been able to demonstrate any such jurisdictional error or material irregularity. The lower Courts had the jurisdiction to entertain and decide the suit, and they exercised that jurisdiction in accordance with the law. The mere fact that the Applicants disagree with the findings of the lower courts does not constitute a ground for interference in revision. It is a well-established principle that a revisional court, while exercising jurisdiction under Section 115 of the C.P.C., generally does not interfere with concurrent findings of fact recorded by the two Courts below. This principle is based on the premise that an appellate court serves as the final authority for determining disputed questions of fact. However, this rule is not absolute. There are exceptional circumstances where intervention under Section 115 of the C.P.C. may be warranted, such as in cases of gross misreading or non-reading of evidence on record, or when the courts below have exercised their jurisdiction illegally or with material irregularity. In this regard, reliance may be placed on the dictum laid down by the Supreme Court of Pakistan in *Haji Wajdad v. Provincial Government Through Secretary Board of Revenue Government of Balochistan, Quetta and others* (2020 SCMR 2046). It is a matter of record that the Applicant has not only failed to demonstrate gross misreading, non-reading of evidence, illegality, or material irregularity but has also been unable to establish any exceptional circumstances warranting intervention in the concurrent findings of fact recorded by the learned Courts below.



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10. For the reasons stated above, this Court finds no merit in the present Civil Revision Application. The Applicants have failed to establish any jurisdictional error or significant irregularity in the impugned judgments and decrees of the lower Courts. The impugned Judgment dated 02-09-2021 followed by Decree, passed by the learned District Judge, Thatta, are hereby affirmed. The parties shall bear their own costs for these proceedings.



Announced by me
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JUDGE

THE HIGH COURT OF SINDH, KARACHI
CERTIFIED TO BE TRUE COPY

[Signature]
(MUHAMMAD SARFARAZ)
J/C: ASSISTANT REGISTRAR (COPYING)

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COMPARING BY/
OFFICE ASSOCIATE

[Signature]
(MUHAMMAD SARFARAZ)
J/C: ASSISTANT REGISTRAR (COPYING)