

Judgment Sheet
IN THE HIGH COURT OF SINDH, KARACHI
Civil Revision No.245 of 2011
[Karachi Metropolitan Corporation vs. Farhana Yasin and another]

Date	Order with signature of Judge
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Applicants: Through Mr. Junaid Hussain, Advocate.

Respondents: Nemo

Date of Hearing & 27-01-2026

Judgment:

ARSHAD HUSSAIN KHAN, J.- Through present Civil Revision, the applicant has assailed the order dated 05.09.2011, passed by the learned Vth Additional District Judge, Karachi (South), in Civil Appeal No.134 of 2009, whereby application filed under Order XLVII Rule 1 CPC for review of the order dated 10.08.2009, dismissing the civil appeal filed by the present applicant, was dismissed.

2. Briefly stated, the applicant/plaintiff (KMC) instituted Suit No. 989 of 2001 before the learned IIIrd Senior Civil Judge, Karachi (South), seeking declaration, cancellation of documents, and mandatory injunction. It was pleaded that leases of properties vesting in KMC are governed by Section 45 of the Sindh Local Government Ordinance, 1979 and the Sindh Councils' Land Rules, 1975, while leases in Katchi Abadies are executed strictly in accordance with approved layout plans, and that KMC is competent to lease only land within its jurisdiction and control. KMC's case was that respondent No.1, in connivance with respondent No.2, the then Additional Director (Land), KMC, unlawfully executed a lease of Plot No.176, Upper Gizri, Karachi, which, as per the approved layout plan, was an amenity plot reserved for a Ladies Welfare Centre and, under law, could neither be leased nor have its land use altered. Despite this bar, the respondents allegedly procured and registered a lease, vide Registration No.710 dated 08.03.1999 by misusing the Katchi Abadi lease format. Upon discovery, disciplinary proceedings were initiated against respondent No.2 under the E&D Rules, 1974, culminating in his removal from service. Further, on complaints from the Sindh Katchi Abadi Authority and other departments regarding unauthorized leases, the KMC Council, vide Resolution No.1082 dated 18.04.2001, approved

cancellation of such illegal leases, whereafter the suit was filed. Although the suit proceeded ex-parte due to non-appearance of the respondents, the learned trial court, vide judgment and decree dated 30.05.2009, dismissed the suit on the grounds that KMC failed to substantiate its case through documentary evidence and that the proper remedy against the act of its own official lay before the Director General (Land), which was not availed. The ensuing Civil Appeal No.134 of 2009 was dismissed on 10.08.2009, and the review application was also dismissed on 05.09.2011. Hence, the present revision application.

3. Learned counsel for the applicants contends that the impugned judgments and decrees suffer from material illegality and jurisdictional error, as both the learned trial court and the appellate court failed to properly exercise the jurisdiction vested in them and recorded findings without correct appreciation of the pleadings and evidence on the record. It is further submitted that the learned lower appellate court failed to consider that the deficiency noted by it had been duly rectified by placing on record a proper authority letter, duly signed by the competent authority, and that its earlier non-filing with the memorandum of appeal was a bona fide omission, without affording the applicant any opportunity to cure the defect before passing the order dated 10.08.2009. Learned counsel further submits that the courts below misread and failed to properly appreciate the material on record, including the approved layout plan clearly depicting the suit plot as an amenity site reserved for a "Ladies Welfare Centre." It is lastly contended that such failure amounts to non-exercise of jurisdiction, warranting interference by this Court in its revisional jurisdiction and setting aside of the impugned judgments and decrees.

4. In the instant revision, none has appeared on behalf of the respondents despite service of notices. Since the matter has been pending for the last fifteen years and sufficient opportunity has already been afforded to the respondents to contest the proceedings, the same is taken up for hearing today.

5. I have heard the arguments of the learned counsel for the applicants and with his assistance have perused the material available on record.

Precisely, the applicant's stance before the trial court was that the subject plot, allegedly reserved for amenity purposes in a Katchi Abadi, was unlawfully leased to the respondents by its own official, namely respondent No.2 (then Additional Director, Land), against whom an inquiry was purportedly initiated, resulting in his dismissal from service. However, the record reflects that the documents produced before the trial court as well as before this Court are neither readable nor sufficient to substantiate the appellant's stance.

6. Insofar as the contention regarding the subject plot being an amenity plot reserved for a Ladies Welfare Centre is concerned, there is nothing on record to establish the same, except for a single-page document claimed to be a layout plan, which bears no date, signatures, or official stamps as such cannot be treated as an authentic document. Moreover, none of the documents specify the size or precise location of the plot.

7. Similarly, with regard to the alleged inquiry and dismissal of respondent No.2, the documents relied upon neither bear dates nor signatures, and when confronted with questions regarding the reply show-cause notice filed by respondent No.2 and inquiry report, learned counsel failed to furnish a satisfactory explanation. This Court has also observed that the addresses of the respondents, as furnished before the trial court, the lower appellate court, and even before this Court, are not properly mentioned. Insofar as respondent No.1 is concerned, learned counsel for the applicant stated that the given address is an open plot. As regards respondent No.2, it was stated that he had been removed from service; therefore, service through his office address was not feasible. The applicant, however, failed to furnish the residential addresses of the respondents, particularly respondent No.2, who was admittedly its employee, nor were any efforts made to effect service at their residential addresses.

8. Admittedly, the suit was filed without proper and reliable documentary evidence and, despite being uncontested, was rightly dismissed by the learned trial court. It is settled law that ex-parte proceedings do not dispense with the requirement of proof. In the

absence of cogent evidence establishing its right over the suit plot, the applicant/plaintiff failed to prove its case.

9. Insofar as the civil appeal is concerned, the record reflects that it was admittedly filed without proper authorization and was, therefore, rightly dismissed by the learned lower appellate court on the ground of maintainability on 10.08.2009. Although, the applicant attempted to cure the defect by producing an authority letter along with the review application, claiming that its earlier non-filing was due to misunderstanding, the record shows that the civil appeal was presented on 27.07.2009 by S. M. Asif without any authority letter. The authority subsequently produced was executed on 03.09.2009, which clearly demonstrates that S. M. Asif had no authority to present the appeal either on the date of its institution or up to the passing of the order dated 10.08.2009. In these circumstances, the review application was also rightly dismissed by the learned lower appellate court.

10. It is settled law that revision under Section 115 C.P.C. is a supervisory jurisdiction, to be exercised to correct jurisdictional errors, illegality, or material irregularity in subordinate court proceedings. Upon careful review of the orders passed by the courts below, this Court finds no illegality, irregularity, or misapplication of law warranting interference.

Accordingly the instant revision application is dismissed being devoid of any merit.

JUDGE