

ORDER SHEET
IN THE HIGH COURT OF SINDH
CIRCUIT COURT MIRPURKHAS

Constitutional Petition No. S-60 of 2026.
Constitutional Petition No. S-56 of 2026.
Civil Revision Application No.S-159 of 2025.

DATE **ORDER WITH SIGNATURE OF JUDGE**

1. For order on office objections.
2. For hearing of M.A No.409/2022 and M.A No.420/2022.
3. For order on M.A No.2233/2023.
4. For hearing of M.A No.1554/ 2016.
5. For hearing of main case.

03.03.2026

Mr. Noor Ahmed Memon advocate for the petitioners/ applicants a/w petitioner/ applicant No.1.

Barrister Muhammad Azmatullah Channa and Mr. Abdullah Channa advocates for attorney of the respondent No.17 in C.P No.S-56 and C.P No. S-60 of 2026.

Mr. Muhammad Sharif Solangi, A.A.G.

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Since all these three matters are inter-connected, arising out of same proceedings, concerning the same property and between the same parties, hence these are being dealt with through this consolidated Order.

The controversy involved in this case(s) is that the petitioners/ applicants purchased certain share of land based on a registered sale deed dated 08-12-2005. Subsequently, F.C.Suit No.108/ 2012 was filed on 12-10-2012 wherein petitioners/ applicants were not impleaded as defendants, which was decreed vide Judgment dated 30-04-2015. It is the case of the petitioners/ applicants that despite mutation of their entry in year 2005 and despite disclosure of the said transaction in the written statement filed by the defendants No.3 and 8, the petitioners were not impleaded by the respondents/ plaintiffs as defendants. Hence, the said Judgment was challenged by the petitioners under section

12(2) C.P.C, which was dismissed by the learned trial Court, but the same was allowed by the learned Revisional Court and the matter was remanded back for disposal of the application under section 12(2) C.P.C. While deciding the application under section 12(2) C.P.C, evidence of the petitioners was recorded; however, based upon extraneous factors and without considering the alleged misrepresentation committed by the respondents/ plaintiffs, the application under section 12(2) C.P.C was dismissed by the learned trial Court, which was concurrently upheld by the learned Revisional Court and same has been challenged in instant Petition No.S-60 of 2026. In the connected C.P No.S-56/ 2026 and Civil Revision Application No.S-159/ 2025, the petitioners/ applicants have challenged the Orders passed in the Execution proceedings arising out of above suit and the same Decree.

The case of the respondents is that entry of the legal heir/ respondent No.27, based whereon the petitioners/ applicants are claiming their title, was cancelled vide Judgment and Decree, which was impugned in the application under section 12(2) C.P.C.

After arguing the matter at some length, both learned counsel, under instructions of their respective clients, state that they would be satisfied if the instant Petitions and Revision Application are disposed of and the matter is remanded back to the learned trial Court for impleading the petitioners/ applicants as defendants No.22 and 23 and to allow them to file written statement(s) and opportunity to record evidence and a fair trial under Article 10(A) of the Constitution of Islamic Republic of Pakistan, 1973 and, thereafter, disposal of the suit purely on merits based upon the evidence of the parties. Order accordingly.

In view of above and by consent of the parties (i) the impugned Order dated 10-01-2023 passed in Civil Revision Application No. 40/2019; (ii) the impugned Order dated 10-01-2023 passed in Civil Revision Application No. 57/ 2022 and (iii) impugned Judgment dated 15-10-2016 passed in Civil Miscellaneous Appeal No. 06/ 2016 by learned Additional District Judge, Shahdadpur; and (iv) the Order dated 23-11-2019 passed on application under section 12(2) C.P.C in F.C.Suit No.108/ 2012; (v) the Judgment and Decree dated 30-04-2015 passed in consolidated suits i.e. F.C.Suit No.108/ 2012 and F.C.Suit No.127/ 2012, (vi) Order dated 05-09-2022 passed on application under section 151 C.P.C in Execution Application No. 06/ 2015 (F.C.Suit No.108/ 2012) and (vii) Order dated 20-08-2016 passed in Execution Application No.06/ 2015 by learned Senior Civil Judge, Shahdadpur (Trial/Executing Court), are hereby set aside and instant Petitions and Revision Application alongwith pending listed applications are disposed of in terms that:-

- 1).** By consent of both parties (petitioners and the respondents/ plaintiffs) undertake to appear before the learned trial Court on 26-03-2026 when matter shall be taken up and the respondents/ plaintiffs would file amended title for impleading the petitioners as defendants No.22 and 23 and in this regard no Court Motion Notice would be required to be issued to them and learned trial Court shall add the petitioners as defendants No.22 and 23 in the suit.
- 2).** Notice to other defendants in the suit shall be issued by the learned trial Court.
- 3).** On the same day i.e. 26-03-2026, the petitioners shall file their written statement with the learned trial Court and based thereon, *issues* shall be framed by the learned trial Court.
- 4).** After notice and due opportunity to the defendants, the evidence of the parties shall be recorded and the suit be decided on merits by the learned trial Court, preferably

within a period of 30 days, whereby no unnecessary adjournment be granted to either party.

- 5). Upon conclusion of trial, the learned trial Court shall send copy of the Judgment to the Additional Registrar of this Court in compliance of this Order.

It is clarified that this Order shall not prejudice the rights and contentions of any of the parties on merits .

JUDGE

“Saleem”