

ORDER SHEET
IN THE HIGH COURT OF SINDH
CIRCUIT COURT MIRPURKHAS

Civil Revision Application No.S-157 of 2024

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For order on office objection
2. For hearing of M.A No. 1054/ 2012.
3. For hearing of M.A No. 1055/ 2012.
4. For hearing of main case.

26-02-2026.

Mr. Muhammad Sharif Solangi, A.A.G for the applicants.

None present for the respondents.

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None present for the respondents. Learned A.A.G pointed out that service upon the respondents through all modes has already been affected and in this regard draw attention to the publication of notice in daily newspaper Kawish in its issue dated 16-10-2019 and since then the respondents have remained absent. This is an old matter with respect to civil suit filed in the year 2002 and is lingering since then. The only primary point agitated by learned A.A.G is that after remand of the case from the Court of learned District Judge Sanghar to the Court of learned Senior Civil Judge, Sanghar, no intimation notice was issued by the Court or received by the official respondents, therefore, they have no knowledge for the renunciation of the proceedings before the learned trial Court, which proceeded to debar the official defendants/ applicants in evidence and based thereon, the impugned Judgment and Decree were passed, which have been concurrently upheld by the learned Appellate Court. Learned A.A.G has relied upon Article 10(A) of the Constitution of the Islamic Republic of Pakistan, 1973 and request that only fair opportunity of adducing evidence to the official

defendants/ applicants be allowed so that the matter may be decided on merit instead of hearing one of the parties, which is also against the principle of *audi alteram partem* i.e. no one should be condemned unheard. Lastly, learned A.A.G states that if matter is remanded, same would be proceeded expeditiously after service of notice on the respondents/ plaintiffs.

2. I have heard learned A.A.G, also perused the record and have considered the submissions. Record reflects that despite of service through all modes, the respondents have chosen not to appear. Record further reflects that official defendants/ applicants were debarred by the learned trial Court and that occurred after transfer of the matter from the Court of learned District Judge, Sanghar to the Court of learned Senior Civil Judge, Sanghar. No intimation notice was issued. The submissions with respect to Article 10(A) of the Constitution of the Islamic Republic of Pakistan, 1973 and of *audi alteram partem* clearly lay done decision on merit based upon fair trial and fair opportunity of hearing to all the parties.

3. In view of above instant Revision Application is allowed, resultantly impugned Order dated 18-05-2012 passed in Civil Appeal No. 21/ 2009 by the learned 2nd Additional District Judge, Sanghar, and so also Judgment and Decree dated 02-02-2009 passed in F.C.Suit No.36/ 2002 by the learned Senior Civil Judge, Sanghar, are set aside, and matter is remanded back to the learned trial Court with direction to allow the applicants to record their evidence. However, such exercise be conducted after due notice and appearance of the respondents/ plaintiffs in this matter. Considering the delay in conclusion of these proceedings, it

is expected that learned trial Court would conclude the trial within a period of 90 days from the receipt of this Order.

4. The instant Revision Application is therefore, disposed of in above terms alongwith pending listed applications.

JUDGE

Saleem

