

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

C.P No.S-184 of 2026

[Budho Khan through LRs & others v. S.M Hamid & others]

DATE

ORDER WITH SIGNATURE OF JUDGE

1. For orders on office objections.
2. For orders on M.A No.623/26.
3. For hearing of main case.

27.04.2026.

Qazi Raheel Ahmed Soomro, Advocate for Petitioners

ORDER

Adnan Iqbal Chaudhry, J.– Petitioners pray for a writ against order dated 16.02.2026 passed by the Additional District Judge Jamshoro, allowing Civil Revision No.25/2025 filed by Respondent No.1, thereby remanding the latter's application under section 12(2) CPC to the trial court for decision afresh.

The application by Respondent No.1 under section 12(2) CPC was against ex-parte judgment dated 03.05.2023 and decree dated 09.05.2023 passed in favour of Petitioners and against the Respondent No.1 in Suit No.89/2022, a suit for specific performance of a sale agreement dated 1986. It was contended by Respondent No.1 (defendant) that the Petitioners had suppressed the present address of Respondent No.1 and deliberately provided the age-old address of Respondent No.1 from where he had shifted long ago, and thus he was never served with summons of the suit. In that regard, Respondent No.1 produced his CNIC, renewed in 2014, which reflected a different address from the one where summons were sent. The learned trial court did not advert to this aspect of the matter, hence the order by the learned Additional District Judge to remand the application under section 12(2) CPC for decision afresh.

The diary of the suit reflects that for the longest time the Petitioners did not deposit cost for issuing summons of the suit to Respondent No.1. As per diary dated 21.10.2022, summons issued to Respondent No.1 did not return, and were therefore repeated. However, on 10.11.2022, even though summons issued to Respondent No.1 had not returned, yet the Petitioners moved for service via publication, which was allowed and the suit proceeded on

presumed service. In these circumstances, the observation by the learned Additional Judge that the trial court did not examine the record while dismissing the application under section 12(2) CPC, seems to be apt, and does not call for interference. Therefore, the petition is *dismissed in limine*.

JUDGE

Hafiz Fahad