

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**

**R. A. No.37 of 2025**

(Muhammad Asim & Another vs. Tariq Shamim Ahmed)

**DATE**

**ORDER WITH SIGNATUREs OF JUDGEs**

1. For orders on office objection
  2. For hearing of CMA No.1703/2025 (Stay)
  3. For hearing of main case
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**21.05.2026**

Mr. Farmanullah, advocate for applicant  
M/s Muhammad Saad Siddiqui & Sahibzada Muhammad Mubeen,  
advocates for respondent

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Learned counsel for applicant has explained that the respondent has instituted a suit for declaration, cancellation and permanent injunction in respect of a Maintenance and Management Agreement for an the office of the respondent located at 404, 4<sup>th</sup> Floor, Jofa Tower, Phase-I, Plot No.SB-23 & 24, Block-13, Gulshan-e-Iqbal, Karachi East and as such jurisdiction was with District East Karachi whereas suit has been instituted in District South. In view thereof, the applicant filed an application under Order VII Rule 10, CPC for return of the plaint to be filed before the competent Court having jurisdiction, which was allowed by the trial Court vide order dated 12.08.2024 but has been overturned vide the impugned judgment in appeal filed by the respondent, hence the civil revision.

Learned counsel for applicant submits that the matter falls under sub clauses (d) and (f) of Section 16, CPC which provide that the suits described in the said provisions of law shall be instituted within the local limits of whose jurisdiction the property is situate and as such the learned trial Court erred in passing the impugned order on the basis of Section 20, CPC. Learned counsel for applicants has also argued that the respondents had filed another suit pertaining to the same property not just for declaration of ownership but also involving the right under the maintenance agreement yet such suit was filed in District East, which, in his opinion, shows contradiction. . He relied upon 2023 YLR 2030 (*Civil Aviation Authority vs. Haji Pervez Khan & Others*), 2020 YLR 871 (*Absar Ahmed Siddiqui vs. Union Bank*), 2022 YLR 2304 (*Fawad Salim Malik vs. Mst. Samina Ansari*), PLD 2022 Sindh 69 (*Irfan Wahid vs. Lucky Cement Limited & Others*).



On the other hand, learned counsel for respondents has submitted the background of the case and pointed out that the suit was initially filed in 2014 in which evidence was recorded, during which the applicants filed their first application under Order VII Rule 10, CPC on similar grounds which was dismissed vide order dated 31.05.2018. No appeal was filed against the said order and as such the counsel submits that the said order attained finality. However, after recording of evidence, the suit filed by the respondent was dismissed and on appeal it was remanded for framing of fresh issues and recording of evidence. While evidence was being recorded, yet once again, the applicants filed their second application under Order VII Rule 10, CPC, which was allowed vide order dated 12.08.2024 but has been set aside in appeal vide impugned judgment dated 02.12.2024. Learned counsel for respondent relied on 2018 CLD 203 (SC) *Gulistan Textile Mills Limited versus Soneri Bank Limited* and 2021 CLC 1319 (Lahore) (*Mst. Naseem Sajjad vs. Additional District Judge & Others*) to submit that principles of *res judicata* apply upon interlocutory applications as well and as such the second application filed by the applicants under Order VII Rule 10, CPC on the same ground was not maintainable on this ground alone. On merits, learned counsel for the respondents submits that by way of instant Suit he is seeking cancellation of the Maintenance and Management Agreement and for declaration that demand of maintenance is illegal and unlawful and permanent injunction against such demand. He argued that, therefore, the suit does not fall under any provisions of Section 16, CPC and instead Section 20, CPC is applicable and, therefore, the impugned judgment does not suffer from any infirmity. In respect of second suit, learned counsel for respondents submits that since the main prayer in such suit was pertaining to declaration of ownership in respect of the property located in Gulshan-e-Iqbal, Karachi, the matter was filed and instituted in District East. However, since the instant matter is pertaining to the maintenance services provided by the appellant at such site, the same is a distinct cause of action and jurisdiction is to be determined under Section 20 not Section 16, CPC. He relied upon 2003 SCMR 990 (*Haji Abdul Malik and others vs. Muhammad Anwar Khan and others*) 2006 YLR 1845 [Lahore] (*Lt. Col. M. Ahsan-ul-Haq vs. Mst. Mumtaz Begum and others*), PLD 1978 Lahore 249 (*Mst. Zeenat Bibi and others vs. Mehr Din and another*).

I heard learned counsel for the parties and perused the material available on record.

Perusal of prayer of the suit filed by respondents shows that it is for cancellation of maintenance and management services agreement, there is no

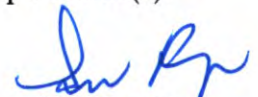


prayer for determination of any right or interest in the immoveable property where such services are to be provided nor is it for the recovery of movable property under restraint or attachment. Not every suit involving an immoveable property falls under the ambit of Section 16, CPC. It is only when the suit is for the purposes stipulated in Section 16, CPC that the said provision is attracted. In any other suit, the jurisdiction is determined in accordance with Section 20, CPC.

The other suit filed by the respondent i.e. Suit No.310 of 2021 was for declaration of ownership in the property located in Gulshan-e-Iqbal, Karachi and as such squarely falls within Section 16(d), CPC. Merely because another prayer in such suit does not fall within the ambit of Section 16, CPC, does not take the suit out of the ambit of Section 16, CPC.

Furthermore, as pointed out by learned counsel for the respondents, this appears to be the second application filed by the applicants on the same ground which in light of Supreme Court's pronouncement reported as 2018 CLD 203 is barred on the principle of *res judicata*.

For the foregoing reasons, the instant civil revision application is without merits, the same is accordingly dismissed along with pending application(s).

  
JUDGE

Gulsher/PS