HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Civil Revision Application No.95 of 2025

Present: Justice Jawad Akbar Sarwana

Applicants	:	1) Allah Bux 2) Ali Muhammad 3) Anwar Ali 4) Muhammad Liaq, 5) Munawar Ali 6) Mst.Sakina and 7) Mst.Maryam all sons and daughters of Late Leemoo, through Mr.Imran Ali Abro. Nemo.
		versus
Respondent No.1	:	Province of Sindh. Nemo.
Respondent No.2	:	The Commissioner, Hyderabad. Nemo.
Respondent No.3	:	The Additional Deputy Commissioner. Nemo.
Respondent No.4	:	The Assistant Commissioner, Matli.Nemo.
Respondent No.5	:	The Mukhtiarkar (Rev.) Matli.Nemo
Respondent No.6	:	The Sub-Registrar, Matli. Nemo.
Respondent No.7	:	Ghulam Muhammad s/o Wali Muhammad. Nemo
Respondent No.8.	:	Ali Hassan s/o Wali Muhammad.Nemo
Respondent No.9.	:	Ali Dino s/o Wali Muhammad.Nemo.
Respondent No.10.	:	Mst.Phaop d/o Wali Muhammad. Nemo.
Respondent No.11	:	Mst.Mini d/o Wali Muhammad. Nemo.
Respondent No.12	:	Mst.Mir Zadi d/o Wali Muhammad. Nemo
Respondent No.13	:	Usman s/o Noor Muhammad. Nemo.
Respondent No.14	:	Fida s/o Noor Muhammad. Nemo.

Respondent No.15	:	Nasreen d/o Noor Muhammad (deceased) through LRs: a) Shado d/o Manzoor Ahmed b) Dani d/o Manzoor Ahmed c) Amjad s/o Manzoor Ahmed d) Shado s/o Manzoor Ahmed e) Sundas d/o Manzoor Ahmed. Nemo.
Respondent No.16.	:	Umer s/o Jumoon. Nemo.
Respondent No.17	:	Qadir Bux s/o Jumoon. Nemo.
Respondent No.18	:	Aban s/o Jumoon. Nemo
Respondent No.19.	:	Mst.Maryam d/o Jumoon. Nemo.
Respondent No.20	:	Mst.Bachal d/o Jumoon. Nemo.
Respondent No.21.	:	Mst.Kazo d/o Jumoon. Nemo
Respondent No.22	:	Mst.Husana d/o Jumoon. Nemo.
Respondent No.23	:	Mst.Shehro d/o Jumooon. Nemo.
Respondent No.24	:	Tanveer s/o Wazeer. Nemo.
Respondent No.25	:	Jumoon s/o Wazeer. Nemo.
Respondent No.26	:	Ahsan s/o Wazeer. Nemo.
Respondent No.27	:	Haji s/o Ismail. Nemo.
Respondent No.28	:	Hashim s/o Ismail. Nemo.
Respondent No.29	:	Arbab s/o Ahmed. Nemo
Respondent No.30	:	Mashooque s/o Muhammad Raheem
Respondent No.31	:	Mumtaz s/o Muhammad Raheem.Nemo
Respondent No.32	:	Qurban Ali s/o Muhammad Raheem. Nemo
Respondent No.33	:	Mehboob Ali s/o Muhammad Raheem
Respondent No.34	:	Mst.Walayat d/o Muhammad Raheem
Respondent No.35	:	Mst.Farzana d/o Muhammad Raheem
Respondent No.36	:	Mst.Zareena d/o Muhammad Raheem

Respondent No.37 : Mst.Rubeena d/o Muhammad Raheem

Respondent No.38 : Zahid Hussain s/o Muhammad Saleh

Respondent No.39 : Sarfaraz s/o Muhammad Saleh. Nemo.

Respondent No.40 : Shamshad s/o Muhammad Saleh. Nemo

Respondent No.41 : Muzamil Ali s/o Muhammad Saleh. Nemo

Respondent No.42 : Muhammad Mohsin s/o Muhammad Saleh

Date of hearing & Short Order: **27.10.2025**

Date of reasons : **04.11.2026**

O R D E R

JAWAD AKBAR SARWANA, J.: The applicants/plaintiffs, being aggrieved by the judgment dated 01.04.2019 passed by the learned Additional District Judge, Matli, in Civil Appeal No. 12 of 2018, whereby their appeal against the order dated 31.03.2018 and decree dated 05.04.2018 passed by the learned Senior Civil Judge, Matli, in F.C. Suit No. 64 of 2017, rejecting their plaint under Order VII Rule 11 C.P.C., was dismissed, have preferred the instant civil revision application under Section 115 C.P.C.

2. Briefly, the applicants instituted FC Suit No.64/2017 for declaration and permanent injunction in respect of agricultural land measuring 9 acres and 26 ghuntas, comprising Survey Nos. 139, 140, 141, 143, 144 and 157, situated in Deh Matli, Taluka Matli, District Badin. They claimed inheritance rights through their predecessor, Muhammad Bachal, son of Muhammad Umar, alleging that the private defendants, in collusion with the revenue officials, had procured fraudulent entries in the revenue record, thereby depriving them of their lawful share in the inherited property. They sought declarations concerning their entitlement to the property and the invalidity of the disputed revenue entries and sale deeds, together with permanent injunctive relief.

3. The record reveals that the applicants had previously instituted F.C. Suit No. 2 of 2009 concerning substantially the same property and relief. The plaint in that suit was rejected under Order VII Rule 11 C.P.C.

by order dated 03.07.2012 on the ground of limitation. The said order was not challenged before the appellate forum and consequently attained finality. The applicants subsequently instituted F.C. Suit No. 64 of 2017, relying upon an alleged private settlement (*faisla*) dated 27.10.2015 and certain subsequent events as furnishing a fresh cause of action. The learned trial Court, by order dated 31.03.2018, rejected the plaint on the ground of limitation. The learned appellate Court, by judgment dated 01.04.2019, maintained the rejection, holding that the subsequent suit was barred by limitation and the provisions of Section 12 and Order II Rule 2 C.P.C.

4. Before examining the merits, it is necessary to notice the previous proceedings instituted by the applicants before this Court. Following the appellate judgment dated 01.04.2019, the applicants instituted Civil Revision Application No. 94 of 2019 on 29.05.2019. The said revision remained pending for several years and was ultimately dismissed for non-prosecution by order dated 21.09.2023. The order records that no one was present on behalf of the applicants, as had also been the position on earlier dates, and that the revision accordingly stood dismissed for non-prosecution along with the pending application. The applicants have expressly acknowledged the earlier proceedings in paragraph 18 of the present revision application.

5. Instead of seeking restoration of the earlier revision, the applicants instituted the present Civil Revision Application No. 95 of 2025 on 02.07.2025, again challenging the decisions of the subordinate Courts. Along with the revision, they filed C.M.A. No. 1506 of 2025 seeking condonation of delay, supported by an affidavit sworn by applicant No. 1, Allah Bux, who also claims to be the attorney of the remaining applicants. In the application and supporting affidavit, the applicants assert that respondent No. 31 initiated false litigation before the Revenue Court, which remained pending until it was disposed of by order dated 13.05.2025. According to them, they were occupied with those proceedings and their previous counsel did not inform them that the earlier revision had been dismissed on 21.09.2023. They claim that they subsequently learned of its dismissal and, therefore, instituted the present revision on fresh grounds.

6. I have examined the explanation furnished in the application for condonation of delay and the supporting affidavit. The affidavit substantially reiterates the assertions contained in the application without supplying further particulars. Neither document specifies the

date on which the applicants became aware of the dismissal of their earlier revision, nor does it disclose what steps, if any, they took to seek its restoration. The applicants have also failed to explain how the pendency of proceedings before the Revenue Court prevented them from prosecuting the revision already pending before this Court. The assertion that their former counsel failed to inform them of the dismissal is unsupported by particulars concerning when and how the alleged omission came to light. In these circumstances, the explanation offered does not satisfactorily account for the delay or the institution of a second revision against the same subordinate Courts' decisions.

7. It is significant that the earlier revision had been instituted in 2019, following the appellate judgment dated 01.04.2019, and remained pending until its dismissal on 21.09.2023. The present revision was instituted more than six years after the appellate judgment and nearly two years after the dismissal of the earlier revision. The applicants have relied upon the alleged Revenue Court order dated 13.05.2025 as the circumstance prompting the fresh proceedings. However, the subsequent disposal of revenue proceedings does not, merely by reason of its occurrence, establish a fresh period of limitation for challenging a civil appellate judgment delivered in 2019. Nor does it explain why the applicants did not seek restoration of the earlier revision. The applicants' explanation in C.M.A. No. 1506 of 2025, even when read with the supporting affidavit, fails to establish sufficient cause for the delay in the manner asserted. I have also considered the recent Supreme Court judgment which allowed restoration of civil revision dismissed for non-prosecution for up to three (3) years from the date of dismissal for non-prosecution, provided an application for restoration of the said civil revision is filed within the period of three (3) years from such order of dismissal for non-prosecution. The facts and circumstances in this civil revision are entirely different. Indeed, this is not an application for restoration of the earlier civil revision no. 94/2019, which was dismissed for non-prosecution on 21.09.2023. Instead, this is a fresh civil revision, with new grounds and facts, including recording and relying upon proceedings which took place before the revenue hierarchy up to 13.05.2025. Accordingly, Civil Revision No. 95/2025 cannot, by any stretch of imagination, be considered the same as Civil Revision No. 94/2019, which was dismissed for non-prosecution. On the facts and circumstances, Civil Revision No. 95/2025 must be considered on its merits and cannot take refuge in Civil Revision No. 94/2019, which impugned the same appellate Order dated 31.03.2018 and decree dated 05.04.2018. Even otherwise, , the

explanation furnished in C.M.A. No. 1506 of 2025 and its supporting affidavit in this Civil Revision No.95/2025, does not establish sufficient cause for condonation of delay.

8. The conduct of the applicants in the present proceedings also requires mention. The revision was instituted on 02.07.2025 and was taken up on 06.08.2025 and again on 08.09.2025, but neither the applicants nor their counsel appeared on either occasion. Notwithstanding their absence, the matter was not disposed of, and further opportunity was afforded to enable them to appear and assist the Court. When the matter was again taken up on 27.10.2025, none appeared on behalf of the applicants, nor was any intimation received explaining their absence. Thus, despite successive opportunities, the applicants failed to avail themselves of the opportunity of being heard. Nevertheless, rather than dismissing the revision merely for non-prosecution, I have examined the impugned judgments and the available record to determine whether any ground for interference in revisional jurisdiction is made out.

9. Turning to the underlying controversy, the principal question is whether the learned Courts below committed any illegality or material irregularity in rejecting the plaint under Order VII Rule 11 C.P.C. The applicants' own pleadings, as examined by the learned Courts below, disclose that they had knowledge of the allegedly fraudulent revenue entries in the year 2008, when they approached the competent authorities and thereafter instituted F.C. Suit No. 2 of 2009. The plaint in that suit was rejected on 03.07.2012 on the ground of limitation. The said rejection was not challenged and was allowed to attain finality. The subsequent institution of F.C. Suit No. 64 of 2017, concerning substantially the same property and relief, could not, merely by repetition of the earlier allegations, overcome the legal consequences of the previous adjudication.

10. The reliance placed upon the alleged private settlement dated 27.10.2015 also does not materially advance the applicants' case. The dispute concerning their asserted inheritance rights and the allegedly fraudulent revenue entries had already arisen and had been made the subject of judicial proceedings several years earlier. The alleged settlement and the defendants' subsequent withdrawal of another suit did not extinguish the earlier legal bar or provide a fresh starting point for limitation in respect of the same underlying claim. Likewise, the allegation of fraud cannot, by itself, indefinitely suspend the operation

of limitation where the plaintiffs' own pleadings disclose knowledge of the disputed transactions and earlier litigation concerning them.

11. The applicants' contention that the property was inherited and that limitation did not apply to their claim was also considered by the learned trial Court. However, the suit was not confined to a simple claim for partition or enforcement of an undisputed inheritance right. The applicants sought declarations invalidating longstanding revenue entries and transactions, some dating back several decades, and had admittedly questioned those entries in earlier proceedings. The nature of the relief sought, their admitted knowledge of the disputed entries and the finality of the earlier rejection were therefore material considerations in determining the maintainability of the subsequent suit.

12. The scope of revisional jurisdiction under Section 115 C.P.C. is limited. This Court does not exercise the jurisdiction of a further appellate forum merely to substitute its own opinion for that of the subordinate Courts. Interference is warranted where the subordinate Court has exercised jurisdiction not vested in it by law, failed to exercise jurisdiction so vested, or acted illegally or with material irregularity in exercising its jurisdiction. Upon examining the impugned judgments and the available record, I find that the learned Courts below considered the relevant pleadings, the previous litigation between the parties, and the applicable legal principles. No jurisdictional defect, illegality or material irregularity warranting interference under Section 115 C.P.C. is apparent.

13. For the foregoing reasons, apart from the bar of limitation concerning this civil revision no.95/2025, as discussed hereinabove, even on merits, the examination of the impugned decisions passed by the lower forums discloses no ground warranting interference in revisional jurisdiction. Consequently, on limitation and on merits, the instant civil revision application stands dismissed.

14. The above are the reasons for my short order dated 27.10.2025 dismissing the civil revision application on the said date.

JUDGE

AHSAN K. ABRO