

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P. NO.S- 871 OF 2025

Date	Order with Signature(s) of Judge(s)
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FOR ORDERS AS TO MAINTAINABILITY OF PETITION

10.08.2026

Mr. Raees Awan, Advocate for the Petitioner

ABDUL HAMID BHURGRI, J.- The petitioner has invoked the constitutional jurisdiction of this Court seeking, inter alia, setting aside of the judgment and decree dated 23.01.2025 passed by the learned IVth Senior Civil Judge, Karachi (Malir), in Suit No.324 of 2019, as well as order dated 20.05.2025 passed by the learned District & Sessions Judge, Karachi (Malir), whereby the revision preferred by the petitioner against the said judgment and decree was dismissed.

2. Learned counsel for the petitioner submits that the judgment and decree passed by the learned trial Court are contrary to law and suffer from misreading and non-reading of the evidence available on record. He further contends that the learned revisional Court failed to appreciate that the judgment and decree of the trial Court were without jurisdiction and, therefore, the revision was maintainable. In support of his contention, he has relied upon the judgment reported as 1989 SCMR 34 (Shaikh Muhammad v. Mst. Hashmat Sultana).

3. I have heard learned counsel for the petitioner and examined the material available on record. At the very outset, learned counsel was specifically asked whether an appeal under Section 96, CPC had been preferred against the judgment and decree dated 23.01.2025. He candidly conceded that no such appeal was filed and maintained that a revision was competent in view of the judgment cited above.

4. The contention is misconceived. A judgment and decree passed by a Civil Court in exercise of its original jurisdiction is ordinarily appealable

under Section 96, CPC, unless expressly excluded by law. The revisional jurisdiction under Section 115, CPC, on the other hand, is attracted only in a case in which no appeal lies. Where the statute provides a remedy of appeal against a decree, a party cannot, by its own choice, bypass that remedy and invoke revisional jurisdiction as a substitute for the statutory appeal.

5. The judgment reported as 1989 SCMR 34 (Shaikh Muhammad v. Mst. Hashmat Sultana) does not advance the petitioner's case. The factual and legal context in which revisional jurisdiction was considered therein is materially different and the said judgment does not lay down any proposition that, notwithstanding availability of an appeal under Section 96, CPC, an aggrieved party may elect to challenge an appealable judgment and decree directly through revision under Section 115, CPC. The reliance placed thereon is, therefore, misplaced.

6. The learned revisional Court, while passing the impugned order dated 20.05.2025, correctly noticed that the judgment and decree were appealable under Section 96, CPC and that revision could not be entertained where the remedy of appeal was available. The petitioner, despite having a specific statutory remedy against the judgment and decree, chose not to avail the same. A constitutional petition cannot ordinarily be used to circumvent the statutory appellate hierarchy or to revive a remedy which the litigant failed to pursue in accordance with law.

7. The plea that the judgment and decree of the learned trial Court suffer from misreading or non-reading of evidence does not improve the petitioner's case. Such grounds essentially require examination of the evidence and correctness of the findings recorded by the trial Court, which are matters falling within the domain of the appellate Court under Section 96, CPC. Constitutional jurisdiction under Article 199 of the Constitution is supervisory and cannot be converted into a substitute for a statutory first appeal merely because the remedy chosen by a litigant has proved unsuccessful.

8. As regards the petitioner's assertion that the decree was without jurisdiction, mere characterization of an adverse judgment as being "without jurisdiction" does not dispense with the statutory remedy of

appeal. No jurisdictional defect of such nature has been pointed out which could justify bypassing the ordinary appellate remedy or warrant interference by this Court in exercise of its constitutional jurisdiction.

9. For the foregoing reasons, no ground is made out to interfere with the impugned order dated 20.05.2025 in exercise of jurisdiction under Article 199 of the Constitution. The petition is, accordingly, dismissed in limine, along with pending application(s), if any, with no order as to costs.

MUSHARRAF ALI

JUDGE