

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT
LARKANA**

Civil Revision Application No. S-85 of 2019.

***Before:-
Mr. Justice Ali Haider 'Ada'***

Applicants: Syed Muhammad Shah and Others
Through Mr. Mushtaq Ali Chandio,
Advocate.

VERSUS

Respondents: Province of Sindh and others,
through Mr. Mohsin Ali Khan,
Assistant Advocate General, Sindh

Private Respondents: Syed Zulfiqar Shah and others
through Mr. Javed Ahmed Soomro
Advocate

Date of Hearing : 21.09.2026.
Date of Decision : 21.09.2026.
Date of Reasons : 28.09.2026.

JUDGMENT

Ali Haider 'Ada' J.- The applicants, being the plaintiffs, instituted F.C. Suit No.43 of 2018 before the learned Senior Civil Judge, Mehar (trial Court), seeking declaration and permanent injunction, with a prayer to declare them lawful owners of certain survey numbers situated at Deh Bachi Jageer. The dispute between the parties arose in respect of the land allegedly held by the private respondent's along with the ancestors of the plaintiffs. It was further pleaded that subsequently the private respondents sold their 50% share in the land. The plaintiffs, therefore, sought a declaration that the record of rights be not changed in favour of the defendants and, further, that the same be changed in their favour, while restraining any change in respect of the share of the defendants.

2. In the said proceedings, Respondent/defendant No.7 filed his written statement as well as an application under Order VII Rule 11, C.P.C. The plaintiffs filed objections thereto. However, the said application was entertained and the plaint was rejected vide order dated 29.11.2018, whereafter decree was prepared. The plaintiffs preferred an appeal before the learned District Judge, Dadu (Appellate Court), which, however, upheld the order and decree passed by the learned Trial Court.

3. Both the aforesaid judgments and decrees have been assailed by the applicants through the instant Civil Revision Application.

4. Learned counsel for the applicants submitted that the learned Courts below committed an error in rejecting the plaint, as the matter required recording of evidence, whereas the learned Trial Court travelled beyond the scope of Order VII Rule 11, C.P.C. He, therefore, prayed that the matter be remanded to the learned Trial Court for decision on merits after a full-fledged trial.

5. Conversely, learned counsel for the private respondent as attorney of rest of respondents as mentioned in vakalatnama submitted that the learned Trial Court had rightly invoked Order VII Rule 11, C.P.C., as the matter pertained to the revenue hierarchy.

6. Learned Assistant Advocate General, on the other hand, submitted that the matter involved a private dispute and that a full-fledged trial would be the appropriate course for determination of the merits of the case rather than rejection of the plaint under Order VII Rule 11, C.P.C.

7. Heard learned counsel for the parties and perused the record.

8. It is pertinent to note that the plaintiffs/applicants have taken the stance that their lawful entitlement has been denied by the private respondents/defendants and that the revenue hierarchy, allegedly in order to facilitate the private respondents, committed an excess by changing the record of rights despite the plaintiffs' claim of title over the subject property. They have, therefore, sought a declaratory decree in their favour.

9. In this regard, **Section 53 of the West Pakistan Land Revenue Act, 1967**, itself recognizes that where a party seeks a declaration of rights, title or interest in immovable property, the appropriate remedy is to obtain a declaratory decree from a competent Civil Court. Questions relating to title fall within the jurisdiction of the Civil Court and cannot conclusively be determined by the revenue authorities alone. For ready reference, Section 53 of the West Pakistan Land Revenue Act, 1967, is reproduced hereunder:

“53. If any person considers himself aggrieved by an entry in a record-of rights or in a periodical record as to any right of which he is in possession, he may institute a suit for a declaration of his right under Chapter VI of the Specific Relief Act, 1877 (Act No. 1 of 1877)”.

10. Moreover, rejection of the plaint on the ground of a bar to the jurisdiction of the Civil Court to try a suit of civil nature, or on the question of maintainability of the suit, has to be examined within the parameters of Section 9, C.P.C. In the circumstances of the present case, where the plaintiffs have asserted their title and sought a declaration in respect of the subject property, the matter would be better adjudicated after a full-fledged trial. Support in this regard is drawn from **Salman Ashraf v. Additional District Judge, Lahore and others (2023 SCMR 1292)**.

11. Perusal of the impugned order and the judgments and decrees of the Courts below depicts that the provisions of Order VII Rule 11, C.P.C. were not properly examined. The

said provision is procedural in nature and requires its application in accordance with the parameters prescribed by law. The learned trial Court, while rejecting the plaint and passing the consequential decree in a cursory and mechanical manner, failed to properly examine the controversy raised by the parties. The learned Appellate Court also overlooked the said legal aspect and upheld the order of the learned Trial Court without properly addressing the scope and applicability of Order VII Rule 11, C.P.C. Consequently, both the impugned order and the judgment and decree passed by the Courts below are not sustainable in law. Support in this regard is drawn from **Munir Ahmed v. Ali Raza and 2 others (2024 CLC 1386)**, wherein it has been held that:

13. Moreover, the documents appended with the plaint reflect that the petitioner is the recorded owner of the land in dispute and the burden is upon the petitioner to substantiate his legal character and right enshrined under Section 42 of the Specific Relief Act, 1877 by adducing evidence at the trial Court which is not a purely legal question, thus, the Courts below have erred in law while not dilating upon this aspect. Furthermore, Order XIV, Rule 1, C.P.C., demonstrates that it is a prime obligation of the trial Court to frame issues of law and facts after receiving the pleadings of the parties, and thereafter decide the legal issue at first instance under Sub-Rule (2) of Order XIV, C.P.C, but the trial Court has not followed the mandatory provisions of the C.P.C., thus committed illegality and irregularity.

14. Perusal of the impugned order/judgment and decrees of the Courts below, depict that the Courts below have misinterpreted the provision of Order VII, Rule 11(a), C.P.C., which is a procedural provision. The trial Court has not followed the procedure provided under the C.P.C. while delivering the impugned order and decree in a cursory and mechanical manner, thus the same are not sustainable in the eyes of law. Reliance in this regard is placed in the case of Mst. Iqbal Begum v. Farooq Inayat and others (PLD 1993 Lahore 183), wherein it has been held as under:

13. To start with, it must be kept in mind, first, that the provisions of Order VII, Rule 11 are procedural provisions and secondly that on the principle that the first and the best source from which to ascertain the meaning of any statute is the statute itself, the Code of Civil Procedure must be read as a whole, that is to say, those provisions must not be read in isolation, and if

intrinsic aid is afforded in their interpretation by other provisions of the Code, that aid must be made use of.

12. Keeping in view the foregoing reasons and discussion, the instant Civil Revision Application, which had already been allowed vide short order dated 21.09.2026, was accordingly disposed of. Consequently, the impugned order and decree passed by the learned Trial Court, as well as the impugned judgment and decree rendered by the learned Appellate Court, were set aside. The matter was remanded to the learned Trial Court with a direction to proceed with the trial and conclude the same within a period of three months. No unnecessary adjournment was to be granted to either party. These are the detailed reasons in support of the short order dated 21.09.2026.

JUDGE