

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD.

R.A. No. 193 of 2007
R.A. No. 194 of 2007

DATE	ORDER WITH SIGNATURE OF JUDGE
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05.05.2017.

Mr. Aslam Baig Laghari, advocates for the respondent.

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This court vide order dated 24.04.2017, on account of continuous absence of the counsel for the applicant, made the following orders:

“Mr. Imtiaz Ali Chanihyo, Advocate, holding brief on behalf of Mr. Noor Ahmed Memon Counsel for applicants states that latter is busy before Principal Seat at Karachi and requests for an adjournment. Mr. Aslam Baig Laghari learned Counsel for respondent points out that these matters have been continuing for around 10 years and that for one reason or another the applicants are avoiding to proceed with this matter. A review of the order sheet would reveal that Mr. Noor Ahmed Memon advocate for applicants has prima facie been avoiding to proceed with this matter for number of years. On the next date of hearing Mr. Noor Ahmed Memon advocate for applicants shall be present and proceed with the cases failing which this Court may dismiss these applications. These matter shall come up on 05.05.2017 at 11-00 am.”

2. When the matter is called today, yet a brief is held by Mr. Imdad Ali for Mr. Noor Ahhmed Memon on the ground that *Mr. Memon is not feeling well today*. It was at this juncture that the learned counsel for the respondent drew court’s attention towards the previous date’s orders and agitated that these matters are pertaining to the year 2007 and have been continuously delayed on account of similar conduct of the learned counsel for the applicants, and it was for the said reason that this Court on the last date strictly directed that the counsel ought to be present in the Court, but even today Mr. Noor

Ahmed Memon is not present and not to proceed with the matter notwithstanding no prior intimation was provided by the counsel either, thus it was prayed that this court should dismiss the applications filed by the applicants in the light of the definite orders dated 24.04.2017.

3. With the aforesaid background, a review of the judgment impugned which arises from Civil Appeal No.90/2004, filed by the present applicants against the respondent where claim of the land in question made on account of pre-emption right was denied, notwithstanding that the trial Court in S.C.Suit No.46/1998 framed seven issues and decided issue No.1, 2 and 6 in the affirmative and issue No.3,4 and 5 in the negative.

4. It is clear that when the applicants exerted their rights by way of Shafi-e-Khalit and Shafi-e-Jar being pre-emption on the suit land, the appellate Court after giving cogent reasons and applying its mind diligently reached to the just conclusion that the present applicants failed to prove their demand for Talab-e-Mowasibat and Talab-e-Ishhad in accordance with law and thus held that the present applicants (respondents in the impugned judgment) were not entitled to the relief claimed and set aside the judgment and decree passed by the trial court after giving due consideration to the material available on the record by further placing reliance on the Apex Court's judgment reported as 1979 SCMR 360 and PLD 1979 Peshawar 104.

5. While this court exercising its inherent jurisdiction, to meet the ends of justice and to prevent the abuse of process of the court, which inherent power of the court had been recognized by S.115, could dismiss civil revision petitions not admitted for regular hearing on account of non-prosecution (2015 PLD 137 SC) I had rather considered the impugned judgment wherein I have seen that the appellate court has neither exercised its jurisdiction illegally nor there is any patent or material illegality or there exists any cogent ground to alter or interfere with the legit findings given in the impugned judgment.

6. It is for the above reasons that both the above cited revision applications, not only on account of non-prosecution but also being devoid of any merit, are hereby dismissed. There is however no order as to costs.

Shahid

JUDGE