

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

1. R.A. No. 58 of 2004.

2. R.A. No. 59 of 2004.

DATE

ORDER WITH SIGNATURE OF JUDGE

For regular hearing.

19.01.2018.

Mr. Suresh Kumar, Advocate for the applicants.

Mr. Wali Muhammad Jamari, Assistant A.G.

Mr. Jawwad Laghari, Advocate for respondents No.3 and 4.

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Learned counsel for the applicants contends that the suit for permanent injunction and declaration was filed by the private respondents requiring cancellation of sale deed, which was allowed, although the person in whose name the title stood i.e. Mir Himat Ali Khan was not party to the said suit. It is further contended by the learned counsel that learned trial Court as well as the learned appellate Court has not only failed to appreciate that aspect of the matter but has also failed to consider the relevant evidence as present on record in the discussion. The learned counsel has also referred to the synopsis as present in the file. It is also contended on part of learned counsel for the applicants that 11 (eleven) sale deeds were got registered and proceedings in respect of only these two sale deeds have come forwarded, which have been entertained. It is also contended by the learned counsel for the applicants that the learned appellate Court has also failed to frame the points for determination. In support of his contention, learned counsel for the applicants has relied upon the cases of **Abdul Majeed v. Muhammad Boota (2004 SCMR 807)** and **Umar Hayat v. Khatoon Bibi (2007 MLD 1647)**.

2. Learned counsel for respondents No.3 and 4 on the other hand, contends that the learned trial Court as well as the learned appellate Court has rightly entertained the proceedings as the challenged documents have failed to even acquire support of the witnesses to the said documents. It is further contended that the learned trial Court as well as the learned appellate Court

have considered the valid aspect as bearing from the record and entertained the matter rightly. Learned counsel for the respondents No.3 and 4 as such has relied upon the discussion especially, made by the learned appellate Court in this regard. He has relied upon the cases of **Mian Jan v. Pir Jan (2015 SCMR 298)**, **Muhammad Din v. Muhammad Abdullah (PLD 1994 SC 291)** and **Sana Ullah v. Muhammad Manzoor (PLD 1996 SC 256)**.

3. Learned AAG also supports the impugned judgments.

4. Having heard the learned counsels as well as the learned AAG and gone through the record, main objection to these proceedings in the present circumstances, seem to be non-joinder of necessary party. The same, however, is not a requirement in mandatory form as it was open to the parties to attempt for the same, even otherwise from the proceedings that were initiated in the year 1999 till to-date the said person has failed to come before the Court of law and the contestation is only between the parties present in the matter, well establishing that the parties present are having actual interests being the only contesting parties to the proceedings. The said ground as is being raised as such cannot be taken for exercise of powers under the limited scope of revision as available. The other objections and points as taken up by the learned counsel for the applicants on the way are found to have been discussed in the impugned judgments and although any findings can always be objected to as not being elaborate, but for setting aside the same, substantive material had to be shown in order to enable the Court to exercise the powers under the provision of 115 C.P.C. which unfortunately is not found in these proceedings.

In view of the above, the impugned judgments are not disturbed. Accordingly, the instant revision applications are dismissed with normal costs.

JUDGE

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