

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

R.A. No.264 of 2014.

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For katcha peshi.
2. For hearing of C.M.A-583 of 2015.

09.03.2018.

Mr. Muhammad Sulleman Unar, Advocate for the applicants.

Mr. Shaukat Ali Birhamani, Advocate for respondent No.1.

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1. Learned counsel for the applicants states that the applicant No.2 was never in possession of the subject property and the same was in occupation of the children borne out of the wedlock between the said applicant and respondent No.1. The suit having been filed against the person not in possession as such was not maintainable.

2. Learned counsel for respondent No.1 states that entitlement of the said respondent was proved concurrently and where one of the said children / legal heirs has himself appeared in the witness box they were well aware of the proceedings and in absence of any adverse title the possession cannot be claimed / retained by the applicants.

3. Learned AAG supports the impugned order.

4. Having heard the learned counsels and gone through the record with their assistance, the only element which requires any disturbance is the award of mesne profits which in the present circumstances where the parties once had a relationship of husband and wife cannot be claimed as the subject property was in occupation of the wife or the children, whosoever, irrespectively was licensed by the owner in the first place. In the circumstances, portion of the impugned order to the extent of award of mesne profits is disallowed and except for that, the impugned order not requiring any disturbance is left intact.

5. The revision application stands disposed of in above terms alongwith listed application.

JUDGE