IN THE HIGH COURT OF SINDH AT KARACHI

Civil Revision S-43 of 2010
Rafique Muhammad Shah
vs.
Mst. Nawab Khatoon and Another

Civil Revision S-60 of 2016
Syed Rafique Muhammad Shah
vs.
Mst. Nawab Khatoon and Another

For the Applicant:	Mr. Ghulam Dastagir Shahani, Advocate.
Date of Hearing:	25.02.2019
Date of Announcement:	25.02.2019

ORDER

Agha Faisal, **J**.: Two review applications, being CMA 319 of 2018 and CMA 323 of 2018 ("**Review Applications**"), are to be determined herein in respect of the Order dated 10.09.2018 ("**Impugned Order**"), by virtue whereof the subject Civil Revision Applications were determined and dismissed. In view of the connected nature to the proceedings the subject Civil Revision Applications were listed, heard conjunctively and determined vide the Impugned Order. Since the Review Applications seek a review of the Impugned Order, therefore, the said applications shall be determined vide this common order.

2. Briefly stated, the facts pertinent hereto are that Suit 11 of 1994 was decreed in favour of the present respondent vide Judgment dated 31.08.2004, rendered by the learned 2nd Senior Civil Judge, Shikarpur. The said judgment was assailed in appeal by the present applicant and the said appeal was dismissed vide the appellate

Judgment dated 30.03.2010. The Civil Revision S-43 of 2010 assailed the concurrent judgments listed herein.

3. The present applicant had filed Suit 44 of 2005 before the 1st Senior Civil Judge, Shikarpur and the Judgment therein was assailed in appeal by the present respondent. The said appeal was allowed and the Judgment was set aside and in addition thereto the suit was dismissed. The Civil Revision Application S-60 of 2016 had assailed the stated appellate judgment.

4. Mr. Ghulam Dastagir Shahani, Advocate appeared on behalf of the applicant and submitted that the Impugned Order was rendered in erroneous application of a law as the evidence on record was not considered in its true perspective by the revisional Court; the Impugned Order could not have been predicated on legal grounds; the applicant could not be penalized for not being aware of the law; and finally that since the evidence was not properly considered in the proceedings culminating in the Impugned Order, therefore, it is imperative that the appraisal of evidence be conducted in the present review proceedings.

5. It is observed that the Impugned Order details the considerations before the Court exercising the revisional jurisdiction and has adverted to the reasoning employed by the Courts below in arriving at the conclusions manifest from the respective judgments. It was also recorded in the Impugned Order that from the record available before the Court, it was apparent that the Courts below had given due consideration to the evidence there before and rendered

the judgments after proper appreciation of the applicable law. It was also observed in the Impugned Order that the learned counsel for the applicant sought to reopen the evidence and argue the revision as yet another stage of appeal, however, such an exercise was impermissible under the precepts of Section 115 CPC. The Impugned Judgment further records that no infirmity was pointed out in the Impugned Judgments meriting the exercise of revisional jurisdiction.

6. In the present proceedings the applicant has engaged a new legal counsel and has sought to reopen the controversy before the respective Trial Courts and the methodology employed in such regard is a recourse to the Review Applications under consideration herein. The text of the Revision Applications *prima facie* pleads a variant interpretation of the evidence and seeks a *de novo* determination in respect thereof in the present review proceedings. The treatment of revisional proceedings as an appeal is not sanctioned under the law, which restricts the scope of a revisional Court in terms of Section 115 CPC. The Impugned Order had maintained that no infirmity had been pointed out in the respective Impugned Judgments meriting the exercise of revisional jurisdiction. Even in the hearing conducted today, the learned counsel has not been able to identify any infirmity with respect to the Impugned Order. The Impugned Order had maintained that it was well settled law that the concurrent findings coupled with a preponderance claim supported by evidence may not ordinarily be interfered by a Court in exercise of its revisional jurisdiction and reliance in such regard had been placed upon the

Judgments of the superior Courts reported as 1997 SCMR 1139, 2000 SCMR 431, 2004 SCMR 877 and 2002 CLC 1295.

7. While the learned counsel for the applicant remained singularly unable to identify any infirmity with respect to the Impugned Order, it is apparent that the jurisdiction of this Court in review proceedings is limited to the prescriptions of Section 114 read with Order 47 CPC. The entire thrust of the arguments advanced by the learned counsel was directed to compel the Court to re-appraise the evidence led before the Trial Courts and there was no effort to identify any mistake or error apparent on the face of the record or any other sufficient reason justifying a review of the Impugned Order.

8. This Court has duly considered the contents of the Review Applications (along with affidavits filed therewith) and the arguments advanced by the learned counsel and is of the considered opinion that no grounds for review have been made out. Learned counsel has not demonstrated the discovery of any new and important matter which could not have been addressed earlier. Learned counsel has further been unable to identify any mistake apparent on the face of record and finally no substantial reason has been advanced to justify the review of the Impugned Order. It is thus the considered view of this Court that the Review Applications are misconceived, hence, the same, along with listed applications, are hereby dismissed with no order as to cost.

J U D G E