

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

Second Appeal No.63 of 2021

Abdul Hameed
Versus
Malik Haq Nawaz & others

Date	Order with signature of Judge
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1. For orders on CMA 2068/21
2. For orders on CMA 2069/21
3. For hearing of main case
4. For orders on CMA 2070/21

Dated: 08.04.2021

Mr. Muhammad Ramzan Tabassum for appellant.

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Against the concurrent findings of two Courts below and perhaps after conclusion of first round of litigation, which ended up by way of decree in Suit No.490 of 2000, the appellant who was defending aforesaid suit, filed subsequent suit bearing No.650 of 2020 of which plaint was rejected under order VII rule 11 CPC on account of Res judicata, which is subject matter of instant second appeal. The order was maintained by the appellate Court.

I have perused contents of prayer clauses of subsequent suit and so also that of earlier suit. Both are almost identical and somehow overlapping each other except one contention/prayer of the subsequent suit that possession was taken over by the respondent through police aid. If that is the situation, the appellant could have approached the executing Court as the execution application in the earlier suit is stated to be still pending where miscellaneous applications of the appellant are also pending.

I have also perused the orders of the two Courts below whereby plaint of the appellant was rejected and find no error in it and both the orders of the two Courts below. However, insofar as the pending applications before the executing Court in earlier suit are concerned, the appellant is at liberty to proceed with them and the executing Court may dispose them of, after hearing the counsels and/or parties in accordance with law, preferably in two months' time.

Instant Second Appeal stands disposed of in the above terms along with listed applications.

Judge