

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

Second Appeal No.61 of 2021

Kamran Zafar

Versus

Muhammad Idress & others

Date	Order with signature of Judge
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1. For orders on CMA 1802/21
2. For orders on CMA 1803/21
3. For orders on office objection a/w reply as at "A".
4. For orders on CMA 1804/21
5. For hearing of main case
6. For orders on CMA 1805/21
7. For orders on CMA 1806/21

Dated: 08.04.2021

Mr. Waheed Hussain Kashmiri a/w Mr. Musa Siddiqui for appellant.

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Learned counsel for the appellant has impugned an order of the appellate Court whereby trial Court order's passed on application under order VII rule 11 CPC was set aside.

The application primarily was moved on the ground that suit was barred by time in terms of Article 181 of Limitation Act. Substantially the said article has no applicability to the case in hand. Even otherwise limitation in the present case seems to be a mixed question of law and fact which could only be appreciated once parties are allowed to record evidence. The appellate Court has thus rightly observed that this issue goes to the root of the case and unless parties are allowed to record their evidence, summarily a plaint cannot be rejected on this count alone.

Secondly learned counsel for appellant has referred to the documents which were filed along with plaint and claims the same to be fake. He additionally submits that the documents attached and relied upon by the appellant are genuine. Even these questions could not be probed summarily while considering the application under order VII rule 11 CPC and hence order of the trial Court was rightly set aside and case was remanded to the trial Court to proceed on merit in accordance with law. No interference is required in the impugned order. The Second Appeal is accordingly dismissed along with listed applications.

Judge