

**IN THE HIGH COURT OF SINDH,  
AT KARACHI.**

**C.P No.D-962 of 2016**

**Present:**

Ahmed Ali M. Shaikh, CJ  
and Yousuf Ali Sayeed, J

Petitioner : Arshad Aziz through Mr. Z.K Arif,  
Advocate

Respondents : Nemo

Date of hearing &  
Short Order : 30.08.2021

**ORDER**

The Petitioner has invoked the Constitutional jurisdiction of this Court, assailing the dismissal of Civil Revision Application No. 40 of 2014 by the IVth Additional District Judge, Karachi. That Revision Application had been filed by the Petitioner impugning the Order dated 09.08.2014 made by the learned IInd Senior Civil Judge, Central Karachi in Execution Application No.07 of 2011, dismissing his Application under Order 9 Rule 13 CPC read with section 12(2) and 151 CPC. The Revision came to be dismissed by the learned ADJ on 27.01.2016, and the relevant excerpt from the Revisional Order encapsulating the substance of the underlying matter reads as follows:

“The record also revealed that in the application which was filed under Order IX Rule 13 R/W Section 12(2) and Section 151 CPC in which it was averred that the Judgment and Decree had been obtained by the plaintiff by playing fraud, misrepresentation and concealment of facts as the summons were not served upon the defendant No. 2/J.D. It is further disclosed in the application that the applicant came to know when the notice was affixed on the outer of the house of the applicant and it was further agitated that proper address was not mentioned in the entire proceedings. I have gone through the order passed by the learned trial court and the learned trial court in its order had held that repeated notices were issued against the defendant at his given address viz. house No. 83/3 Khayaban-e-Saher, D.H.A Phase VII, Karachi through all modes of service. The contention has

been raised that proper address was not mentioned by the respondent in the plaint but it is admitted position that the CNIC of the applicant which is annexed as annexure B-3 of the present revision application also mentions the same address of the applicant Arshad Aziz to the house No. 83/3, Khayaban-e-Saher D.H.A. Phase VII, Karachi and the permanent address is also mentioned to be same. The CNIC also reflects that it was issued on 25.06.2002 valid till 30.04.2015. The contention of the applicant is therefore repelled that proper address of the applicant was not mentioned. The record shows that the address which is appearing on the CNIC of the applicant was mentioned by the respondent in the plaint filed by him.”

In that backdrop, the Revisional Court observed quite correctly that the scope of the proceeding before it was quite limited and only entailed an assessment as to whether any patent illegality or irregularity had been committed by the trial Court, which was found to be absent under the given circumstances.

On query posed to learned counsel as to what error or illegality afflicted the Orders of the fora below, learned counsel was unable to point out any such lapse, and in fact conceded that the CNIC of the Applicant bore the address that had been ascribed to him in the plaint. Even otherwise, the very maintainability of the Revisional Application comes into question when it is considered that an Order made under Order 9 Rule 13 CPC is appealable. Under such circumstances, we are of the view that the Petition is bereft of force hence the same was dismissed accordingly, along with the listed miscellaneous application vide a short order made on 30.08.2021.

**Chief Justice**

**Judge**

*TariqAli/PA*