

Order Sheet
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD

CP No. D- 16 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE
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19.04.2022

For orders on office objection
For hearing of MA 111/22
For hearing of main case

Mr. Ghulam Murtaza Shaikh, Advocate for Petitioners
Mr. Khadim Hussain Soomro, Advocate for respondents 1, 9 to 13
Mr. Rafiq Ahmed Dahri, Asstt: A.G.

Learned counsel has argued the matter at length. He has presented the case that minors at the time when Suit No. 360 of 2011 was pending and decided were not heard.

Mr. Khadim Hussain Soomro, Advocate for respondents 1, 9 to 13 has taken us to the title of the suit which shows that all such minors have been arrayed and their defence was available before the court through a guardian i.e. Mst. Razia daughter of Noor Muhammad being mother of those minors. However, aggrieved of the judgment and decree these minors through guardian filed an appeal which was barred by time. The petitioners aggrieved of the order of appellate court than preferred Revision Application No. 21 of 2017 which too was dismissed. However, it was observed that applicant Nos. 2, 3, 4 and 5 i.e. the alleged minors at the time of filing appeal, may subsequently attempt to avail the remedy. This observation does not mean that the legal impediments if any would not come in the way. Their defence was considered and the remedy in the shape of appeal and revision were availed. However, we will not observe any further as the suit of these minors is pending. Be that as it may, this constitutional petition against the impugned order arising out of execution application would not lie. It is further urged that the application under Section 12(2) CPC was filed by these petitioners before a court which granted decree in Suit No. 360 of 2011 in presence of those

minors. In case they were able to convince the court that the decree is outcome of fraud and misrepresentation, they may obtain an order; however, no such interim orders could be passed by this court in this writ petition. With this observation and as agreed by the learned counsel for the petitioners he may continue to pursue his application under Section 12(2) CPC if pending which may be heard and decided after notice to all concerned in six weeks time. Unless the interim order from the competent court is shown to the executing court, the executing court shall continue with the Execution proceedings.

JUDGE

JUDGE

karar_hussain/PS*