

ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD
C.P No.D-1295 of 2021

DATE

ORDER WITH SIGNATURE OF JUDGE

22.03.2022

Ms. Gulnaz A. Hashmi, advocate for petitioner

Mr. Allah Bachayo Soomro, Additional A.G Sindh

This is a petition under Article 199 of the Constitution, challenging the order of the VIth Additional District Judge, Hyderabad in Civil Revision Application No.07 of 2020, whereby an order of dismissal of an application under section 12(2) was reversed and on the re-appraisal of evidence recorded under section 12(2), the case was remanded to the trial Court after setting aside the judgment and decree. The spirit of the order was that applicant/intervener had certain claim over the property and hence he cannot be ousted without adjudication of his claim. It appears that an ex-parte decree was obtained at the back of the respondent/intervener and the appellate Court's order has only remanded the case that the suit of the petitioner be decided after arraying the applicant/intervener as being necessary party and evidence be recorded in this regard. This is absolutely justified, as a prima facie case had been presented by the applicant/intervener at the time of recording evidence on application under section 12(2). The law further provides support in favour of the applicant/intervener that fundamental rights under Article 10-A have been frustrated and violated and unless adjudication of the individual claim of the petitioner and respondent is entertained, decree on merit cannot be passed. Hence we see no justification and merit in this petition; however, we expect that the trial Court shall, after effecting service upon the parties, adjudicate the claim of the parties expeditiously and pass speaking order in accordance with law. The petition as such has no merits and the same is accordingly dismissed.

JUDGE

JUDGE