

ORDER SHEET

**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**

**C. P. No. D - 2380 of 2017**

Date of hearing	Order with signature of Judge
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**Hearing of case (priority)**

1. For hearing of CMA No.15809/2017 (S/A)
2. For hearing of main case

**01-11-2022**

Mr. Mukesh Kumar G. Karara, Advocate for the petitioner.  
Mr. Qurban Ali Malano, Advocate for respondent No.1.  
Mr. Noor Hassan Malik, Assistant Advocate General Sindh along  
with Naeem Akhtar Vistro, Mukhtiarkar, Naushahro Feroze.

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1. This Constitution Petition is directed against the order dated 06-12-2017, whereby the learned 3<sup>rd</sup> Additional District Judge, Naushahro Feroze while allowing Civil Revision No.13 of 2013, set aside the order dated 17-04-2013, thereby the learned Senior Civil Judge, Naushahro Feroze dismissed the application filed by respondent No.1 under Section 12(2), C.P.C. in F.C. Suit No.224 of 2009, and remanded the matter to the trial Court to decide the said application afresh after framing issue on the point of fraud and misrepresentation, if any, played while obtaining judgment and decree in the aforementioned suit.
2. Heard the learned Counsel for the parties and perused the material available on record.
3. It appears that it is case of the respondent No.1 that he was not aware about the institution of the suit as he was not residing at the given address given in the title of the aforementioned suit; hence, the ex-parte judgment and decree were obtained by the petitioner by playing fraud and misrepresentation.
4. The revisional Court while observing that the trial Court has not attended the issue of fraud and misrepresentation on the principle of natural justice, has remanded the matter to the trial Court for deciding the same afresh after framing relevant issue. There is no conclusive finding of the revisional Court regarding the alleged fraud and misrepresentation.

5. Under such circumstances, we do not find any illegality or irregularity in the impugned remanding order; hence, this Constitution Petition is **disposed of** with direction to the trial Court to decide the application under Section 12(2), C.P.C. in the aforementioned suit afresh expeditiously and preferably within a period of three (03) months hereof, after framing relevant issue and recording of evidence of the parties, without being influenced with the observations made by the revisional Court in Civil Revision No.13 of 2013.

Instant Constitution Petition stands **disposed of** in the above terms along with listed application.

JUDGE

JUDGE

Abdul Basit