

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
 C. P. No. D-3094 of 2022

Date	Order with signature of Judge
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FRESH CASE.

1. For orders on CMA No.21708/2022.
2. For orders on Office Objection No.18.
3. For orders on CMA No.13735/2022.
4. For orders on CMA No.13736/2022.
5. For hearing of main case.

05.09.2022.

Mr. Shamshad Ali Qureshi, Advocate for the Petitioners.

1. Urgency granted.
2. Deferred.
3. Allowed, subject to all just exceptions.

4&5. The captioned Petition has been preferred against the Order dated 25.04.2022 of the learned IVth Additional District Judge (MCAC), Karachi, Central, allowing Civil Revision Application No.115/2021 filed by the Respondent No.1 against the Order made by the learned IInd Senior Civil Judge, Karachi, Central, on 10.09.2021, whilst seized of an Application under Section 12 (2) CPC filed by the Petitioner in Execution No.07/2011 emanating from Civil Suit No.369/2006.

Apparently, the underlying Suit was one for Specific Performance, Declaration, Possession and Permanent Injunction, and was decreed ex-parte against the Petitioner vide Judgment dated 31.05.2010, with the aforementioned Application under Section 12 (2) CPC then being filed, seeking that the Judgment and Decree be set aside so as to afford an opportunity to the Petitioner for recording of evidence, according to law.

Vide the Order that came to be made on that application, the Executing Court allowed the same so as to not only set aside the Judgment and Decree, but also went on to dismiss the Suit. By contrast, the Revisional Court was of the view that the controversy involved could not be decided in a summary manner, hence set aside the Order dated 10.09.2021 and directed the trial Court to decide the Suit and pending Application on merits, after recording the evidence of the Parties, as required.

Under such circumstances, it is apparent that the Order of the Revisional Court merely sought to foster adjudication of the dispute on merits and was in consonance with the very intent and design of the underlying Application under Section 12 (2) CPC which itself contemplated and elicited such an outcome.

Mr. Shamshad Ali Qureshi, learned counsel for the Petitioners, proceeded with the matter at considerable length and was afforded sufficient time to present his case. However, when the matter was going to be reserved for orders to be passed during the course of the day, he started misbehaving, shouting and uttered the following words:-

ابھی تو میں نے اپنا کیس مکمل نہیں بتایا۔ اور آپ نے اپنا فیصلہ محفوظ کر لیا اسی لیے میں آپ کی عدالت میں اپنا کیس نہیں لگواتا ہوں۔ آپ مجھے NOT BEFORE کر دیں۔ میں اپنا کیس آپ کی عدالت میں نہیں چلانا چاہتا۔

Having dispassionately considered the matter, we are of the view that the Order of the Revisional Court appears to be just and proper and does not suffer from any infirmity or illegality warranting interference in exercise of the Constitutional jurisdiction of this Court. That being so, we dismiss the Petition *in limine* along with other pending miscellaneous applications. Whilst, in the above backdrop, the conduct of Counsel renders him liable in our view to proceedings under the Contempt of Court Ordinance, 2003, exercising restraint we are inclined to let the matter pass on this occasion with a caution to ensure proper decorum in future.

CHIEF JUSTICE

JUDGE

MUBASHIR