

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C. P. No. D-5292 of 2022

Date	Order with signature of Judge
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FRESH CASE.

1. For orders on Misc. No.22634/2022.
2. For orders on Office Objection No.18.
3. For orders on Misc. No.22635/2022.
4. For orders on Misc. No.22636/2022.

14.09.2022.

Mr. Raja Rashid Ali, Advocate for the Petitioners.

YOUSUF ALI SAYEED, J. - The Petitioners profess to be aggrieved by the Order of the learned IXth Additional District Judge, Karachi, West (MCAC), dated 19.08.2022 dismissing Civil Revision Application No.54/2022 preferred by the Petitioners against the order made on 21.05.2022 by the learned IIIrd Senior Civil Judge, Karachi, West, in Suit No.1605/2019 filed by the Petitioners for Damages on account of Malicious Prosecution. The operative part of the underlying Order of the trial Court reads as follows:-

“After perusal of R&Ps, it reveals that the plaintiff was acquitted of the charge, vide judgment passed by the Honourable Additional Sessions Judge-VIII, Karachi-West in Sessions Case No.1150/2016 by extending benefit of doubt, therefore, the keeping in mind the dictum laid down by the Honourable High Court of Sindh in Case of Sher Muhammad V/s. Mola Bux (1995 CLC 1134).

Learned counsel for the plaintiff is directed to argue on the point of maintainability of the suit.”

As it is apparent from a perusal of the aforementioned Order, the question of maintainability remains to be decided. Learned counsel for the Petitioners nonetheless sought to argue that the Suit was

maintainable as an Issue had been framed by the Court on that point, and the same could only be determined after recording of evidence. Be that as it may, as observed by the Revisional Court where the matter remains to be decided and no Order adverse or prejudicial to the Petitioners has yet been passed, it would be appropriate for the Petitioners to argue the point before the trial Court and if the Suit is held to be not maintainable, then recourse may be had to such further remedies are available under the law.

As such, in view of the foregoing, we are of the view that the Petition is misconceived and while granting the application for urgency we dismiss the Petition *in limine*, along with the other miscellaneous applications with cost of Rs.10,000/- to be deposited towards the High Court Clinic within 10 days of the date of this Order.

JUDGE

CHIEF JUSTICE

MUBASHIR