

ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.
Civil Revision No.88 of 2003&No.90 of 2003

DATE	ORDER WITH SIGNATURE OF JUDGE
1.	<u>For orders on office objections in both R.A Nos.88/2003.</u>
2.	<u>For orders on M.A No.1536/23 in R.A No.88 of 2003 and M.A No.1538/23 in R.A No.90 of 2003.</u>

27.03.2023.

Mr. Mazhar Hussain Kalwar, Advocate for applicants.

The application(s) at serial No.2 in both revision applications have been filed under Section 12(2) CPC for recalling of order dated 29.05.2006 through which both these Revision Application(s) were allowed by consent of the parties and the order(s) of the Courts below were set-aside. While confronted as to entertaining these application(s) so belatedly, learned counsel has referred to order dated 09.03.2018 passed in Civil Revision Application No.287 of 2016 by this Court and order dated 16.07.2018 passed in Civil Petition No.472-K of 2018 by the Supreme Court and submits that the present Applicants were not aware of these proceedings, whereas, the impugned order has been obtained behind the back of the present Applicants who in possession with valid ownership documents. He has also referred to the supporting affidavit and para 8 thereof.

I have heard the learned counsel and perused the record. Insofar as placing reliance on the two orders as above is concerned, admittedly they were also passed way back in the year 2018 and therefore, are of no help to justify the delay in approaching this Court with the listed applications. As to Para 8 of the supporting affidavit, again it is too generic without any proper cause of action so to satisfy filing of these bleated application(s). It further appears that before the Honourable Supreme Court in the above matter, a similar plea was raised by similarly placed Applicants that they were not arrayed in the pending proceedings, wherein the impugned order was passed and despite the fact that leave was also granted on this issue; finally, the civil petition of the said parties was dismissed. It may be of relevance that those proceedings were initiated on a similar ground by way of an independent Suit. In that case the present applicants have no better case on facts to plead that they were also not parties to the impugned order in question. Following the order of the Supreme Court, this ground has to be rejected ultimately.

Lastly, the order impugned herein by way of listed application under 12(2) CPC was also challenged by the respondents in these Civil Revisions on the ground that their consent was only to the extent of appointment of Commissioner to identify the disputed land and not to his report regarding such identification and through judgment reported as *Bhai Khan and others v Shakeel and others* (2009 SCMR 594), the Appeal was dismissed. A review was preferred and the same was also dismissed. All these facts have been recorded in the order of the Supreme Court as above. It will also be relevance to note that the said Appeal was preferred by the Respondents including Respondent No.2 *Mr. Ghulam Rasool Saho*, whereas, the present Applicant i.e. *Mst. Bakhtawar Bai* is the wife of *Mr. Ghulam Rasool Saho*; hence, cannot challenge the said order by way of an application under section 12(2) CPC as a legal heir. In fact, such conduct on her part is an attempt to mislead the Court and to waste the precious time of the Court warranting imposition of costs; however, taking a lenient view, cost is not being imposed; but she is warned to be careful in future.

In view of such position, no case for entertaining these misconceived belated applications is made out; hence, they stand dismissed in limine.

JUDGE

Hafiz Fahad