

IN THE HIGH COURT OF SINDH AT HYDERABAD

R.A.14 of 2023 : Mir Ali Nawaz Khan & others Vs. Mir Ali Murad Khan & others.
For the petitioner : Mr. Ghulamullah Chang, Advocate
Date/s of hearing : 23.11.2023.
Date of announcement : 23.11.2023.

ORDER

Agha Faisal, J. This Revision Application assails interlocutory order dated 24.12.2022 passed by the District Judge, Mirpurkhas in Succession Application No.19 of 2017. The order is reproduced herein below:

- “1. These two applications are filed for replacement of the surety with some other surety on the grounds mentioned therein.
2. Heard and perused.
3. It has been noted that not only the surety was furnished by the applicants but they specifically bound themselves for securing claim of the Mir Ali Murad Khan (Muhammad Ali) Talpur, the plaintiff in Suit No.419 of 2017, with following words. “That I also undertake that I shall let my said property mortgaged till final disposal of the civil suit, filed by Mir Ali Murad Khan (Muhammad Ali) Talpur.”
- 4 The security was obtained in compliance of the direction given by Honourable High Court in C.P. No.660 of 2017. Admittedly, the Civil Suit after recording of evidence of both the sides has been ripe up for final arguments i.e. the last stage of the case. In such circumstances, both the applications are dismissed.”

At the very onset, learned counsel is confronted as to what law has been violated and he submits that none has been violated. It is the entire case that the Court was duty bound to grant the application and replace the security as sought.

Heard and perused. It is settled law that interference in interlocutory orders may only be merited in revisionary jurisdiction in exceptional or extraordinary circumstances¹. It is the deliberated view of this court that no *exceptional or extraordinary circumstances* could be demonstrated before this court.

The narrative recorded in the impugned order has not been controverted by the applicant’s counsel and it is categorically stated there is no law mandating the court to grant such an application. The District Judge appears to have exercised discretion duly vested therewith and no exception in such regard could be demonstrated before this court.

It is trite law² that where the fora of subordinate jurisdiction had exercised its discretion in one way and that discretion had been judicially

¹ *Khalid Mehmood vs. Judge Family Court, Faisalabad* reported as 2010 YLR 336; *Muhammad Baran vs. Member (Settlement & Rehabilitation) Board of Revenue, Punjab*, reported As PLD 1991 Supreme Court 691.

² Per *Faqir Muhammad Khokhar J. in Naheed Nusrat Hashmi vs. Secretary Education (Elementary) Punjab* reported as PLD 2006 Supreme Court 1124; *Naseer Ahmed Siddiqui vs. Aftab Alam* reported as PLD 2013 Supreme Court 323.

exercised on sound principles the supervisory forum would not interfere with that discretion, unless same was contrary to law or usage having the force of law. It is the considered view of this court that no manifest illegality has been identified in the order impugned and further that no defect has been pointed out in so far as the exercise of jurisdiction is concerned of the subordinate forum.

Even otherwise, learned counsel was unable to cite a single ground based upon which the jurisdiction of this Court could be exercised under section 115 of Code of Civil Procedure. There is no suggestion that the impugned order is either an exercise without jurisdiction or a failure to exercise jurisdiction or an act in exercise of jurisdiction illegally or with any material irregularity.

In view hereof, this revision is found to be misconceived and devoid of merit, hence, hereby dismissed.

Judge

Ahmed/Pa,