

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.  
R.A. No.194 of 2021

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<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGE</b>
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1. For order on office objection
2. For order on CMA-2989/2021
3. For hearing of main case.

**21-12-2023**

Mr. Wali Muhammad Jamari, Assistant A.G Sindh.

This revision is pending since 2021 and even notice has not been sought till date. Briefly stated, F.C.Suit 10 of 2021 was filed before 1st Senior Civil Judge, Sanghar and vide order dated 11.02.2021 an interim application was dismissed therein. Operative part is reproduced herein below:

“In view of the above discussion, and following the above case laws, this court is of the view that if the defendants have violated the orders of disposal of above C.P on the statement on behalf of defendants, the plaintiff has to approach proper forum with proper application for remedy / action and tentatively plaintiff has no prima facie case and balance of conveyance does not lies in favour of the plaintiff, for grant of injunction on the point of maintainability of the suit appears to be barred by law. I, find no reason for grant of injunction, I, therefore, dismiss the application in hand under order XXXIX Rule 1 & 2 CPC with no order as to costs. Let the parties be heard on next date of hearing on the point of maintainability of the suit regarding filling present suit with the same prayer of previous suit dismissed as withdrawn on 16.05.2002 without seeking permission to file a fresh.”

The respondent filed Civil Misc. Appeal 05 of 2021 before the IInd Additional District Judge, Sanghar and the same was allowed vide order dated 31.08.2021 *in view of directions of the Supreme Court*. Operative part is reproduced herein below:

“By this order, I am disposing of the instant Civil Misc. Appeal. According to the appellant the disputed land has been existed in their name by way of sale deed, upon which the Forest Department is claiming their lien. The advocate of the Government before Honourable Supreme Court has also appeared where the Honourable Supreme Court has directed to the respondents/Government parties to decide the matter according to law. The learned Senior Civil Judge has disposed of the suit and injunction application of the appellant without receiving any evidence, therefore, this appeal has filed in this court. The Government respondents Mr. Sharafat Ali, learned D.A has strongly opposed the appeal on account of Forest Land.

I have considered the arguments advanced by all the parties and hereby direct the learned trial court to comply the directions of Honourable Supreme Court and to receive the evidence of the appellant and suit be disposed of on merits. The appeal in hand is hereby allowed by setting aside the impugned order dated 11.02.2021. Parties to bear their own costs.”

On 19.12.2023 the A.A.G was asked as to whether the underlying suit was still subsisting. Today he has informed the Court that the suit is subsisting and that no interim orders are passed therein.

It is noted that the impugned order is prima facie rendered *in compliance with directions of the Supreme Court*. Nothing has been articulated to suggest that the same has been done erroneously as no record of any review being filed is placed before this Court. The A.A.G was queried as to how the Province was aggrieved by an order of the appellate Court rendered in prima facie compliance of directions of the Supreme Court, however, he remained unable to provide any justification.

Learned A.A.G was asked to demonstrate the grievance arising out of the impugned order, however, none could be articulated.

Notwithstanding the foregoing, 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 *in limine* along with listed application.

Judge

Ahmed/Pa,