

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P. No.D-349 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE
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For hearing of M.A. No.1835/2022

For hearing of main case

17.08.2023

Mr. Aghis-U-Salam Tahirzada advocate for the petitioner.

Mr. Rafique Ahmed Dahri AAG Sindh.

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This petition is arising out of the concurrent finding of the two courts below. A suit for a claim to inheritance was filed by respondents No.1 to 3 as Civil Suit No.475 of 2015 which was contested by defendants including Mst. Mumtaz Shaikh, the present petitioner. She contested the matter through her attorney. The appellate court's findings disclose that the petitioner, applicant in the revision of Appellate Court, was served in the trial court. As per record, the bailiff returned the process with the endorsement that he visited the given address and 4 others and was told by the womenfolk about the unavailability of male members at the house. Thereafter, the processes were repeated through other modes i.e. by way of pasting etc, and finally the matter was published in daily newspapers and served consequently. This was sufficient compliance of the service of summons upon the petitioner.

She claimed that a fake power of attorney was prepared by her brother and it was contested by him behind her back. Even the findings in this regard were given by the trial court while disposing of application under Section 12(2) CPC that the signatures were carefully scrutinized and were not found to be fake.

The jurisdiction was exercised lawfully by the two forums below. The suit against Defendant/Petitioner claims the inheritance in a property wherein they were deprived of it. It is claimed by the petitioner that the suit

property was gifted only to her depriving all other siblings. There is no material available on record that other legal heirs have also been settled one way or the other as pleaded by petitioner.

This constitutional petition is not a remedy under the law unless the jurisdictional flaw is established in the two forums below. The petitioner herself invoked the jurisdiction of the trial court by moving an application u/s 12(2) CPC and on its failure she filed a revision application which met the same fate. Hence, the question of jurisdiction having been wrongly exercised is not available to the petitioner. There is nothing in this petition which could allow us to intervene and disturb the findings of two forums below. The petition merits no consideration and is dismissed.

JUDGE

JUDGE

Ali Haider

