

ORDER SHEET

**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**

**Civil Revision No. S – 123 of 2022**

Date of hearing	Order with signature of Judge
-----------------	-------------------------------

**Hearing of case**

1. For orders on CMA No.728/2024
2. For orders on office objection at Flag-A
3. For hearing of main case

**02.09.2024**

Mr. Mian Abdul Salam Arain, Advocate for applicant.  
Mr. Zulfiqar Ali Naich, Assistant Advocate General Sindh.

.....

**Zulfiqar Ahmad Khan, J. –** Despite service, no one has appeared on behalf of respondents. In fact, the bailiff's report suggests that he went to the address of respondents No.1, 2 and 4, where he met with respondent No.4, who denied receiving the notice and informed him that respondents No.1 and 2 have migrated to Punjab. Hence, the bailiff, by way of pasting, served respondents No.1, 2 and 4. However, notice of respondent No.3, who had gone to Karachi, was received by his Munshi namely Abdul Kareem, who assured that respondent No.3 will attend the Court on the next date of hearing, however he is called absent.

2. Counsel for the applicant states that applicant's plaint was rejected on an application under Order VII Rule 11, CPC, available at Page-41. A perusal of the said application and the annexed affidavit however does not make any plausible case to my mind, on the basis of which the plaint could have been rejected. Seemingly, the trial Court has completely misunderstood the factual controversy between the parties and the legal grounds attracted as well as failed to consider the evidence presented to it and pass a speaking judgment on merits. Per learned Counsel, the appeal filed against the impugned order was also dismissed without any cogent reason. In support, he states that the Supreme Court on a number of

occasions, has clearly mandated that the controversies of the parties ought to be decided on merits rather than on technicalities.

3. In the circumstances, the impugned order and judgment are set aside, and the matter is remanded to the trial Court with direction to pass a speaking judgment after giving opportunity of leading evidence to both the parties.

The revision application is **disposed of** along with listed application, in the above terms.

J U D G E

Abdul Basit