

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH CIRCUIT COURT**  
**MIRPURKHAS**

Constitution Petition No.D-1049 of 2024

*(Muhammad Iqbal Vs. Mst. Hawa & others)*

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**DATE**                      **ORDER WITH SIGNATURE OF JUDGE**

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*Before*

Adnan-ul-Karim Memon, J

Amjad Ali Bohio, J

Date of hearing & Order 12.08.2024

Mr. Harish Chandar, Advocate for the petitioner

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**ORDER**

The Petitioner Muhammad Iqbal has questioned the legality of the Order dated 26-08-2023 passed by Senior Civil Judge, Khipro in F.C. Suit No.87 of 2019, concurred by Additional District Judge, Khipro vide order dated 25-07-2024 in Civil Revision Application No. 09 of 2023, an excerpt whereof is reproduced as under:-

“5. In view of above, I am of the considered view that I do not find any illegality or irregularity in the impugned order, and the order is passed by the learned Trial Court is just fair and transparent in accordance with law, needing no interference by this court, hence instant civil revision is devoid of merits, which is hereby dismissed with no orders as to costs, hence, Order passed by learned Trial Court stands maintained. However interlocutory applications, if any, pending in the instant civil revision stands dismissed beng in fructuous.”

2. It appears from the record that during the pendency of F.C.Suit No.87/2019 filed by Mst Hawa against petitioner Muhammad Iqbal and an application under Order VI Rule 17 CPC was filed by the private respondents to allow them to amend their plaint; and, the proposed amendment was allowed vide Order dated 26-08-2023, directing respondent/plaintiff to file amended plaint by giving chance to the petitioner/defendant to file amended written statement. The learned counsel for the petitioner has mainly argued that the impugned orders are illegal, void, and coram nonjudice. He further submitted that the learned Addl. District Judge/revisional court passed the impugned order in violation of the principle of natural justice and the fundamental rights of the petitioner. He further submitted that the order dated 26-08-2023 passed by Senior Civil Judge, Khipro in F.C. Suit No.87 of 2019the allowing the application of the respondents under Order VI Rule 17 CPC is illegal and is a sheer violation of law. His next submission is that the revisional court failed to appreciate that in the amendment the respondent/plaintiff

had shown extra area in the suit which remained sub-judice between Mst. Hawa and Muhammad Iqbal before the trial court and the area had already been shown in Suit No.20/1993 filed by petitioner/Muhammad Iqbal through his next friend Muhammad Bux against Mst. Hawa and others which was decreed in favor of petitioner/Muhammad Iqbal vide judgment dated 27-02-1999 and decree dated 02-03-1999. He further contended that not only that but in the year 2021 Mst. Hawa in her lifetime through attorney Imran Ali filed application U/O 12 Rule (2) CPC before the learned trial court against the judgment and decree dated 29-09-1994 passed in Third Class Suit No.20/1993 (Re-Muhammad Iqbal through next friend Muhammad Bux Versus Mst. Hawa and others) pending before the learned Civil Judge Khipro and simultaneously in the year 2021 Mst. Hawa in her lifetime through her attorney Imram Ali applied Order 12 (2) CPC before the learned Senior Civil Judge Khipro in F.C Suit No.81/1998 Re-Mst. Hawa and others which was dismissed vide order dated 27-03-2021 after framing of issues and recording evidence and if said amendment is made then the nature of the suit will be changed which is against the law.

4. Primarily, respondent No.1/plainfiff sought amendment in her plaint by applying Order VI Rule 17 CPC which is available on the file. The proposed amendment in the plant is reproduced hereunder:-

5. The application under Order VI Rule 17 CPC can only be dismissed on the ground if the proposed amendment changes the nature or complexion of the plaint/written statement. Besides, it is the right of every person to amend the plaint and it is the discretion of the trial court to allow or disallow the application at any stage of the trial. The findings of the learned Senior Civil Judge, Khipro and Addl. District judges are based on proper appraisal of law and do not call for any interference in the exercise of constitutional jurisdiction of this court.

6. This petition is without merit and the same is hereby dismissed in limine with costs. The learned trial court should decide the suit expeditiously.

**JUDGE**

**JUDGE**