

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Const. Petition No. D-7969 of 2022
(Yasmeen Saeed & others Versus Mumtaz Ahmed Khan & others)

Dated	Order with signature of Judge
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Present:
Mr. Justice Muhammad Shafi Siddiqui
Justice Ms. Sana Akram Minhas

Priority

1. For hearing of CMA No. 33684/2022 (stay)
2. For hearing of Main Case

Dated 29.04.2024

None present for the Petitioners

Syed Khurram Kamal Advocate for the Respondent Nos. 3 to 6

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In a suit for declaration and permanent injunction which in fact claimed to be a suit for administration, as some share therein to the extent of 28.59% was claimed, an application under Order VII Rule 11 C.P.C. was filed, which was dismissed by the Senior Civil Judge on 21.04.2022. The application was perhaps on the count that the suit was barred by limitation. Aggrieved of it a Civil Revision No. 83 of 2022 was preferred which too met the same fate, hence this petition.

The Petitioner counsel is not in attendance. We are not the appellate authority as far as the impugned order is concern. Order VII Rule 11 C.P.C. wherein the limitation issue was raised invariably involves a mix question of law and facts and two forums below have decided it as such

We do not enjoy the jurisdiction to be an appellate authority of such orders unless the exercise of jurisdiction by courts below is such, which was not vested or even if found to be a constitutional violation; such not being the case here. We are therefore of the view that the issue of limitation would at best be an issue of law and fact and an appropriate issue be framed by the learned single Judge in case desired by the party raising such objection.

Today the Petitioners are not in attendance, we therefore deem it appropriate to dismiss it.

JUDGE

JUDGE