

**ORDER SHEET**  
**HIGH COURT OF SINDH, CIRCUIT COURT,**  
**HYDERABAD**

C.P No.D-1720 of 2024

*[Riaz Ahmed vs. Nizamuddin (deceased) through LRs and others]*

Date	Order with signature of the Judge
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**Fresh Case**

1. For orders on office Objection
2. For orders on M.A No.8411/2024 (exemption)
3. For orders on M.A No.8412/2024 (stay)
4. For hearing of main case

**16.01.2025**

Mr.Mushtaque Ahmed Memon, Advocate for the Petitioner

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Invoking the jurisdiction of this Court under Article 199 of the Constitution of Pakistan, 1973, the petitioner has challenged the legality of the Order dated 22.10.2024, passed by the Court of Additional District Judge-II Tando Muhammad Khan, referred to herein as “**the Revisional Court**”, who maintained the Order dated 10.8.2024, passed by the Court of Senior Civil Judge-II, Tando Muhammad Khan, hereinafter referred to as “**the Trial Court**”. Whereby the applications under Order XVIII Rule 18 C.P.C and Article 78 and 84 of Qanun-e-Shahdat Order, 1984 (“**QSO**”), preferred by the Petitioner/Plaintiff for a site inspection of the suit land and comparison signature were dismissed, and Revision preferred there-against was also dismissed.

2. Learned counsel for the petitioner contended that both the learned lower Courts dismissed both applications in a slipshod manner without inviting objections from the other side. He further contended that both lower Courts failed to consider that the earlier application filed by the Petitioner under Order XVIII Rule 18 CPC was dismissed at a premature stage. Additionally, he argued that the Respondents/defendants claimed the petitioner is not in possession of the suit land, although he is in possession. Hence, site inspection was necessary to resolve this controversy. Similarly, he contended that the signature of the deceased Nizamuddin on the agreement to sell is denied by his legal representatives (LRs); therefore, it is just and proper that the agreement to sell, as well as

the CNIC of the deceased Nizamuddin, be sent to the expert for comparison of the signature. He also argued that both lower Courts committed illegality with material irregularity while passing the impugned orders, and the same are liable to be set aside.

3. Considering the arguments presented by the learned counsel for the petitioner, as well as a thorough examination of the impugned Orders, it is evident that the petitioner has initiated a suit for the specific performance of a contract against the Respondents, relying on an agreement to sell, with the obligation to substantiate this claim resting upon him. The trial Court subsequently framed the pertinent issues, following which the petitioner has completed his presentation of both oral and documentary evidence. As per Articles 76, 77, 78, 79, and 80 of the QSO, there are established procedures for verifying documents or agreements to sell. In this scenario, both parties have finalized their evidentiary submissions and concluded their cases. However, just as the matter was set for final arguments, the petitioner filed applications for Site Inspection and a comparison of signatures. It should be noted that the petitioner had previously submitted a similar application for a site inspection, which the trial Court dismissed vide Order dated 16.8.2022. The petitioner did not challenge this decision, thereby granting it finality. Upon reviewing Order 18 Rule 18 CPC, it is clear that the Court itself has the authority to invoke this provision if it is necessary to clarify any question for adjudicating the dispute. In this case, the question of possession must be determined based on the available oral and documentary evidence presented by the parties. Relying on the Court's power to inspect the suit land to ascertain possession does not resolve the issue adequately, as it constitutes a weak form of evidence.

4. Regarding the comparison of Defendant No.1's signature by sending the agreement to an expert, it is within the purview of the Presiding Officer, who will decide the suit, to compare the signatures after evaluating the evidence related to the framed issues. Additionally, under the law, an expert's report serves as an opinion, which is not binding upon the Court. While the Handwriting Expert's opinion is relevant, it does not constitute conclusive proof. The expert's evidence is considered a weak form of evidence that only supplements or clarifies direct or circumstantial evidence, and it cannot be given preference over confidence-inspiring evidence.

5. There is no apparent illegality or irregularity committed by the learned Courts below that would justify interference by this Court in exercising its extraordinary writ jurisdiction. The revisional Order in civil litigation, exercised within the jurisdiction of the Court, cannot be challenged through a writ petition. Therefore, based on the foregoing reasons, the present writ petition, lacking both substance and merit, is **dismissed in *limine*.**

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