

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
Civil Revision Application No.S-09 of 2020.

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
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1. For orders on CMA No.52/2020 (U/A).
2. For orders on office objections 'A'.
3. For orders on CMA No.34/2020 (E/A).
4. For orders on CMA No.33/2020 (S/A)
5. For hearing of main case.

23.01.2020.

Mr. Gulsher Junejo, advocate for the applicants.

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1. The matter is already fixed on 02.03.2020. Learned counsel for the applicants pleads urgency on the ground that the trial Court after allowing application filed by the defendants Under Order XVIII Rule 18, CPC is bent upon to proceed further. The urgency application is treated as an application for antedate hearing of the matter and the same is allowed. The matter is taken up today.

2. Learned counsel states that since revision application has been maintained against the interlocutory order, no Court fee is required to be paid. The objections with regard to the affixing of Court fee is overruled while other objections are deferred.

3. Exemption application is granted subject to all just exceptions.

4&5. Learned counsel states that the applicants filed F.C Suit No.96/2019 for declaration, specific performance of contract and permanent injunction against the respondents before the Court of learned Senior Civil Judge, Shahdadkot, claiming therein that they entered into an oral agreement to sale on 05.01.2017 with the private respondents in respect of agricultural land total admeasuring 38 acres situated in Deh Chhori, Tapa Karira, Taluka Miro Khan, District Kamber-Shahdadkot and in consequence thereof, the applicants were



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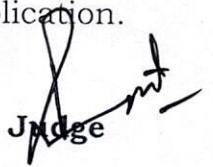
put into physical possession of said land. He further contends that the said suit has been contested by the defendants No.1, 2 & 3 by filing written statement wherein they denied the case of the applicants and also filed an application Under Order XVIII Rule 18 & XXVI Rule 9 Read with section 151, CPC for inspection of the suit land in order to ascertain the possession thereof, which application was contested by the applicants by filing objections, however, the learned In-charge Senior Civil Judge allowed the application vide order dated.04.01.2020 ignoring the objections raised by the applicants. Against that order, the applicants preferred Civil Revision No.01 of 2020, which was heard and dismissed by the learned District Judge, Kamber Shahdadkot vide order dated 09.01.2020 on the ground that the same was not maintainable before him as the impugned order was passed by the learned Additional District Judge, Shahdadkot as In-charge Judge Senior Civil Judge, Shahdadkot. The learned advocate states that since both the parties claim the possession of the suit land with them, the learned trial Court should have avoided from passing any order for the appointment of the Commissioner for the purpose of ascertaining the fact relating to the possession of the suit land, hence the impugned order is liable to be set-aside.

It reveals from the perusal of the impugned order that the learned Additional District Judge In-charge Senior Civil Judge while observing the fact that the applicants/plaintiffs have filed the suit claiming therein that they are in physical possession of the suit land which fact has been denied by the defendants hence he in order to ascertain the fact only to the extent that who is in fact in physical possession of the suit land allowed the application filed by the private respondents whereby he appointed one Mansoor Ahmed Tunio, advocate as Commissioner with directions to inspect the suit land in presence of the parties concerned and their counsel and to submit his

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report in accordance with the law; particularly, in respect of the possession of the suit land as to whether the plaintiffs are in possession thereof or the defendants.

At the very outset, learned counsel for the applicants failed to make out any case of interfering in the impugned order. Order XVIII Rule 18, CPC empowers the Court for the inspection of any property concerning with any question which may arise at any stage of the suit. Since both, the applicants and the private respondents claim possession of the suit land with them, it was within the power of the trial Court to pass impugned order in order to ascertain the fact relating to the possession of the suit land. The learned trial Court while passing the impugned order have rightly exercised the jurisdiction vested in it by law hence the impugned order does not suffer from any illegality or irregularity requiring any interference of this Court in its revisional jurisdiction. Hence the Civil Revision Application is dismissed in *limine* along with the listed application.

Judge 

M.Y.Panhwar/**