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ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA  
Civil Revision No.S-24 of 2011.

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
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1. For Hearing of CMA 60/2011.
2. For Hearing of main case.

11.09.2017.

Mr. Abdul Qadir Abro, advocate for the applicants.

Mr. Shafi Mohammad Chandio, Addl. A. G.

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Through this Civil Revision, the applicant has impugned judgment dated 22.12.2010, passed in Civil Appeal No.18/2006 (New No.23/2010), whereby the judgment dated 19.04.2006 and decree dated 22.04.2006, passed by the 2<sup>nd</sup> Senior Civil Judge, Shikarpur in F.C Suit No.34/2004 has been maintained through which the suit filed by the applicant was dismissed.

Very precisely the stated facts appear to be that plaintiffs filed a Suit for Permanent Injunction on the ground that they are in possession of land carved out from Survey No.133 Deh Chak, Taluka Lakhi Ghulam Shah, District Shikarpur, on the basis of sanads duly issued in their favor respectively by the competent authority and an attempt has been made to dispossess them. After filing of pleadings issues were settled by the trial court and two specific issues were framed regarding issuance of sanads being competent or not and whether they were false and fictitious. All the issues were decided against the plaintiffs and suit was dismissed, whereas, appeal preferred was also dismissed, hence instant revision application under Section 115 CPC.

Learned counsel for the applicant has contended that the appellate Court in the impugned judgment has erred in law and has failed to follow the mandatory provision of Order XLI Rule 31 as no points for adjudication were settled and, therefore, this revision

application merits consideration and after setting aside the impugned judgment the matter may be remanded to the appellate Court. In support of his contention, he has relied upon the cases of *Ch. Abdul Kabeer v. Mian Abdul Wahid and others* 1968 SCMR 464, *Nasir Abbas v. Manzoor Haider Shah* NLR 1989 SCJ 811 and *Mst. Aisha v. Mst. Fatima* 1991 CLC 1499.

On the other hand learned Addl. A. G has supported the impugned judgment and has referred to the operative part and submits that the applicant has failed to prove its case through acceptable evidence hence no case for indulgence is made out. He has further referred to the order passed by the Additional Commissioner Larkana Division dated 18.08.1993 whereby the alleged allotment of the land stood cancelled as the same was reserved for construction of Government Girls College Chak.

Learned counsel for the applicant while exercising his right for rebuttal submits that the order so referred by the learned Addl. A. G was not passed in the case of the applicant and, therefore, has no relevancy.

I have heard the learned counsel as well as the learned Addl. A. G and perused the record. Insofar as the objection regarding the judgment passed by the appellate Court in terms of Order XLI Rule 31 and framing of points for determination is concerned, I may observe that on perusal of the said judgment, it appears that though specific points for determination have not been so stated, however, the learned appellate Court after perusal of the material available on record and going through the Record & Proceedings of the trial Court has given its cogent findings which reflect that the controversy and the objections so raised on behalf of the applicant have been duly attended to. If the Appellate Court in each and every case, has not framed points for determination it is not that such judgment would be liable to be set aside on that ground alone, whereas, it becomes immaterial more so

when all the questions raised have been answered by the appellate Court. The case of the applicant is not that any misreading or non reading of the evidence is involved; nor it is the case of the applicant that the Courts below have no jurisdiction or have acted in excess of jurisdiction. It is, but sufficient, that the appellate Court answers the material questions in its judgment and even if no points are framed for determination it would not *ipso facto* render the judgment illegal or without lawful authority.

The Hon'ble Supreme Court of Pakistan in the case of ***Muhammad Iftikhar v. Nazakat Ali (2010 SCMR 1868)*** has been pleased to deal with a similar situation and has observed as under:

4. We asked the learned counsel as to what were the arguments specifically urged before the learned High Court during the hearing of the regular second appeal but he failed to specifically refer the law points urged during the course of arguments before the learned High Court. However, perusal of para No.6 of the impugned judgment indicates that the only ground urged before the learned High Court was that the learned Courts below did not strictly adhere to the provisions of the Order XLI, Rule 31, C.P.C., which contention has been properly and correctly addressed to by the learned High Court in the impugned judgment. It appears from the perusal of the impugned judgment and that by the first appellate Court, in substance compliance of the provisions of Order XLI, Rule 31, C.P.C was made and it is not always required that in each case the appellate Court would deal with each of the issue and to resolve the same separately in the light of the evidence available on the record unless the same had caused any serious violation of the law or resulted into a grave miscarriage of justice to any of the parties to the suit.

5. In the instant case, the findings of facts recorded by the learned trial Court on the issues were maintained by the learned first Appellate Court, therefore, unless the findings are reversed by the first Court of appeal which is not so in the present case, decision on each issue may not to be distinctly and essentially recorded, provided in substance compliance of the provisions of the Order XLI, Rule 31, C.P.C. has been made. The case-law cited by the learned counsel in view of his contention before the learned High Court, is quite distinguishable and is, therefore, not relevant. In our considered opinion, the impugned judgment does not suffer from any impropriety or illegality, so as to call for any interference by this Court."

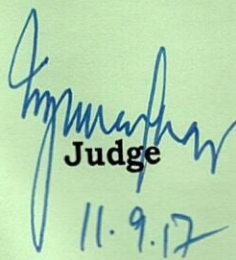
Similar view has been expressed in the case of ***Hafiz Ali Ahmad v. Muhammad Abad and others PLD 1999 Karachi 354,***

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***Ghulam Samdani and others v. Faqir Khan* PLD 2007 Peshawar 14,  
*Abdullah and 11 others v. Muhammad Haroon and 8 others* 2010 CLC  
14 and *Muhammad Azam v. Mst. Khursheed Begum and 9 others* 2013  
Y L R 454.**

Even otherwise on perusal of the material placed before me it does not reflect that any confidence inspiring evidence was led by the applicant in support of its case, whereas, only a suit for injunction was filed without any prayer for a declaration regarding ownership of the property in question. It has come on record through evidence that plaintiffs have failed to establish their possession on Suit land through any independent source, whereas, the sanads on which the entire case of the plaintiffs rests have been found to be fake and bogus. The plaintiffs have not been able to controvert such fact through any cogent or confidence inspiring evidence, whereas, the land in question was reserved for construction of Government Girls College. In view of the aforesaid observations, I am of the view that no case for any indulgence is made out so as to interfere with the concurrent findings of both the Courts below, as in my view very reasoned judgments have been passed and consequently instant Revision Application being devoid of any merit is hereby dismissed.

  
Judge  
11.9.17

M. Yousuf Panhwar/\*\*