

ORDER SHEET

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THE HIGH COURT OF SINDH CIRCUIT COURT AT LARKANA

IInd Appeal No.S-04 of 2017

Date	Order with signature of Judge
1.	For orders on office objection 'A'
2.	For orders on CM.A No.456/2019 (151 CPC)
3.	For orders on CM.A No.139/2019 (151 CPC)
4.	For orders on CM.A No.200/2017 (E/A).
5.	For orders on CM.A No.385/2018 (151 CPC)
6.	For orders on CM.A No.386 /2018 (151 CPC)
7.	For orders on CM.A No.387 /2018 (U/O 1 R 10 CPC)
8.	For orders on CM.A No.388 /2018 (151 CPC)
9.	For orders on CM.A No.389/2018 (U/O 39 R-1 & 2)
10.	For orders on CM.A No.201 /2017 (U/O 39 R-1 & 2)
11.	<u>For Hearing of Main Case.</u>

06.02.2020.

Mr. Muhammad Saleem Mangi, Advocate for the appellants.

Mr. Ghulam Dastagir Shahani, Advocate for the respondent No.2.

Mr. Abdul Rehman Bhutto, Advocate for respondents No.1 and 4.

This second appeal is directed against the Judgment and decree dated 26.1.2017, whereby the learned 1st Additional Sessions Judge, Kandhkot, while dismissing Civil Appeal No.01 of 2016 maintained the judgment and decree passed by learned Senior Civil Judge, Kandhkot dated 7.6.2016 whereby the F.C Suit No.67 of 2014 filed by respondent No.1 was dismissed.

A perusal of record shows that the learned Courts below concurrently dismissed the aforesaid suit filed by the respondent No.1 by observing *inter-alia* that the suit of respondent No.1 fell within the ambit of resjudicata as envisaged under section 11 of the Civil Procedure Code. No relief prayed for by the respondent No.1, in his aforementioned civil suit was granted either by the trial Court or the appellate Court hence, the

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appellants who were defendants before the trial Court and respondents before the appellate Court appear not to be aggrieved by any Judgment or decree passed by the Courts below. As such, when the learned counsel for the appellant was put on notice to satisfy as to how this second appeal is maintainable in law, the only argument made by him is that the appellants are the legal heirs of the deceased Muhammad Younis and so also the respondent No.1, however they have not been given their due share in the suit property. I am afraid, as stated above, no judgment and decree has been passed by the Courts below against the appellants, hence second appeal is not maintainable in law. The appellants are in any way entitled to claim their respective rights of inheritance, they should have approached the competent forum for the redressal of their grievances however, this second appeal for the aforementioned reasons being not maintainable under the law is dismissed accordingly along-with the listed applications, with no order as to costs.


JUDGE

S. Ashfaq