

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

First Appeal No.115 of 2024

Date	Order with signature of the Judge
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Fresh Case

1. For Orders on C.M.A No.1995/2024
2. For Orders on office objection a/w reply as at "A"
3. For Hearing on Main case
6. For Orders on C.M.A No.1996/2024

01.10.2024

Mr.Mukhtiar Ali Maitlo, Advocate for the appellants

Through an instant appeal under Section 96 of the Code of Civil Procedure, 1908 ("C.P.C."), the appellant has assailed the legality of the order dated 09.8.2024, passed by the learned Additional District Judge-IX, Karachi West ("Trial Court") on an application under Section 12(2) C.P.C filed in a Summary Suit No.27/2023, whereby an application under Section 12(2) C.P.C.

We have heard learned counsel for the appellants and perused the impugned order. The appellants have solely relied on the grounds for setting aside the judgment and decree dated 26.01.2024, alleging that the summary suit was instituted with malafide intention by the respondent by concealing the fact of filing another civil suit. It is pertinent to note that before filing an application under Section 12(2) CPC, the appellants had filed an application for leave to defend, which was dismissed on 17.11.2023. The said order has not been impugned by the appellant, wherein he had also raised the same ground of malafide intention and concealment of the fact of filing another suit. Moreover, an order passed on an application under Section 12(2) CPC can be challenged by a revision under Section 115 C.P.C. and not by an appeal under Section 96 CPC. In the present case, the appellants have utterly failed to substantiate any allegation of fraud, misrepresentation, or want of jurisdiction to vitiate or overturn the impugned order; hence, we do not find any illegality in the impugned order.

In view of the foregoing discourse, the appeal is **dismissed** in *limine*, with no order as to costs, along with miscellaneous applications.

JUDGE

JUDGE