

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Civil Revision No. S – 302 of 2024
(Hassan Ali Gadani v. Province of Sindh & others)

Date of hearing : 26.03.2025

Date of decision : 26.03.2025

Mr. Yameen Ali Khoso, Advocate for applicant.
Attorney of Respondent No.8, present in person.
Mr. Ahmed Ali Shahani, Assistant Advocate General Sindh.

ORDER

Zulfiqar Ahmad Khan, J. – This Civil Revision challenges the judgment dated 07.12.2024, passed by learned Additional District Judge-V, Sukkur, in Civil Misc. Appeal No.16 of 2024. By the said judgment, the appellate Court allowed the appeal, set aside the order dated 15.08.2024, passed by learned Senior Civil Judge-II, Sukkur, in F.C. Suit No.44 of 2023, and remanded the matter back to the trial Court.

2. The applicant asserts that respondent No.8 filed a suit for declaration, possession and permanent injunction in respect of Commercial Plot No.A-16, measuring 110-0 square yards, situated at Sukkur Cooperative Housing Society Ltd, Sukkur, registered under the Cooperative Societies Act, 1925. The applicant, being defendant in the suit, preferred an application under Order VII Rule 11, CPC seeking rejection of the plaint. The application was based on the contention that the suit was barred by Section 42 of the Specific Relief Act, 1877, and Articles 91 & 120 of the Limitation Act, 1908. The application was allowed and the plaint was rejected under Order VII Rule 11, CPC. Respondent No.8 appealed this order, and the appellate Court, in its judgment dated 07.12.2024, set aside the order of the trial Court and remanded the matter for adjudication on its merits. The applicant, through this Civil Revision, has challenged the said judgment of the appellate Court.

3. Learned Counsel for the applicant argued that the impugned judgment, passed by the appellate Court, is contrary to law and unsustainable. He contended that the appellate Court failed to properly appreciate material evidence, particularly the allotment order and registered sale deed in the applicant's name. He further argued that respondent No.8 lacks any title document for the suit property.

4. On the other hand, learned AAG Sindh supported the decision of the appellate Court, and contended that the issue of title declaration necessitates the presentation of evidence, which can only be properly assessed by the trial Court. Therefore, the appellate Court was justified in remanding the matter for a full-dressed trial on merits.

5. After hearing the arguments and reviewing the available record, I find no illegality, procedural irregularity or jurisdictional infirmity in the judgment passed by the appellate Court. The appellate Court exercised its authority in accordance with established legal principles and due process. It is a well-settled principle of law that cases should be decided on their merits, and not merely dismissed due to procedural technicalities.

6. In light of the above, this Civil Revision is **dismissed**. The impugned judgment of the appellate Court is upheld. The trial Court is directed to expeditiously decide the matter on its merits, strictly in accordance with law, as directed by the appellate Court. The trial Court is further directed to complete this exercise preferably within a period of five (05) months from the date of receipt of this order.

J U D G E

Abdul Basit