

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA
Civil Revision No.S-37 of 2025

DATE	ORDER WITH SIGNATURE OF HON'BLE JUDGE
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- 01. For orders on office objection "A"
- 02. For hearing of C.M.A No.220/2025 (E/A)
- 03. For orders on CMA No.221/2025 (151 CPC)
- 04. For hearing of main case.

01-09-2025

Mr. Muhammad Ibrahim Lashari, advocate for applicant.
Mr. Syed Sikander Ali Shah, advocate for respondent No.1&2
Mr. Munwar Ali Abbasi, Assistant Advocate General.

1. The applicant preferred a suit for declaration, cancellation of Khatta, possession and permanent injunction. Learned trial court on an application under Order 7 Rule 11 CPC, filed by respondents, rejected the suit on the ground that the pleadings in the plaint were self-contradictory as the applicant claimed to be adopted son of Bahadur Malik by contending that he was issueless and in the next para he contended that Bahadur Malik was their maternal grandfather. The suit was time barred as they had sought cancellation of Revenue entry after the passage of about 28 years.
2. The operative part, para No.5 of the order passed by the learned trial court dated 28-10-2024 is reproduced below for sake of convenience:-

"I have heard both the learned advocates and gone through the material available on record. Perusal of depicts that; the plaintiff No.1 being attorney asserted at para No.4 of the plaint that; suit land was granted to his maternal grandfather late Bahadur Malik but at para No.7 of the plaint, the plaintiff has asserted that; late Bahadur Malik was uncle of his father (grandfather) and he was issueless and he had adopted his father as his son. The plaintiff himself is not certain that; late Bahadur Malik was either his material grandfather, paternal grandfather or he was uncle of his father and for the sake of arguments if it is believed that; late Bahadur Malik had adopted father of plaintiff as his son even then adopted son cannot claim to be legal and lawful heir of late Bahadur Malik only on the basis of oral version. Record further transpires that; the suit land was granted to late Bahadur Malik in the year 1975/1976 and after issuance of T.O same transferred in his name vide entry No.101 dated 09-06-1994, thereafter an area of (16-08) Acrs from S. Nos.345, 346, 613, 614 and 679 were purchased by defendant JUMAN Shah from Bahadur Malik under

Entry No.103 dated 19-06-1994 as contended by Mukhtiarkar Taluka Kandhkot/defendant No.7, in his written statement. Moreover, the matter is decided in favor of defendants before Revenue authorities from top to bottom, therefore, plaintiffs have no cause of action to file present suit. The plaintiffs have sought declaration that; father of plaintiff No.1 was adopted son of late Bahadur Malik, Therefore, they may be declared lawful owner of suit property after death of their father and grandfather but the plaintiff himself is not certain in the plaint that; late Bahadur Malik was either his maternal grandfather, paternal grandfather or he was uncle of his father, as such suit of plaintiff is hit under section 42 of Specific Relief Act. The plaintiffs are further seeking cancellation of entry/khatta in favor of defendant No.1 being entry No.103 dated 19-06-1994, by filing present suit after passing of about 28 years, hence suit of plaintiffs clearly appears to be time barred as per article 91 of limitation Act”.

3. The applicant preferred an appeal No.21/2024, which was also declined vide order dated 16-12-2024.

4. When confronted as to whether any proceedings before the Revenue Authority were filed challenging the entry in favor of the respondent, which confirmed the sale between the predecessor in interest of the applicant and the respondents. The learned counsel submits that they had tried their best to approach the revenue authorities for cancellation of entries but the same was not entertained. Since the matter in hand pertains to the cancellation of revenue entry, for which u/s 172 of Sindh Land Revenue Act, the exclusive jurisdiction has been conferred upon the Revenue Courts and they cannot decline in any manner to entertain any application or appeal filed against revenue entry. The applicant even can file a fresh suit by placing the correct averments in the plaint in terms of Order 7 Rule 13 of CPC. The learned counsel for the applicant submits that he will file a civil suit.

5. Mr. Syed Sikandar Ali Shah learned counsel for the respondents No.1 and 02, did not oppose, however, he submits that in case fresh suit is filed, learned trial court may be directed to decide the same on merits.

6. The learned counsel may present a civil suit, the learned trial court will proceed with the civil suit in accordance with the law without being influenced by the order passed in suit No.41/2022. The Revision Application stands disposed of in above terms.

JUDGE