

ORDER SHEET
THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANO
C. P No. S-315 of 2026

Date	Orders with signature of Judge
------	--------------------------------

1. For order on office objection.
2. For orders on M.A No. 22/2024. (Stay Application)
3. For hearing of main case.

26-10-2026

Mr. Zamir Ali Shah, advocate for the petitioners

Mr. Saeed Akbar Sial, A.A.G a/w Usaid Zafar Chandio, Mukhtiarkar (Revenue), Taluka Dokri.

Through instant Petition, the Petitioners have challenged the Order dated 31.10.2023¹ (“**Impugned Order**”), whereby the Additional District Judge-IV - Larkana (“**ADJ IV Larkana**”) set-aside the order dated 17.08.2023 passed by the Executing Court of the Senior Civil Judge – V Larkana.

2. Learned counsel for the Petitioners submits that Judgement & Decree dated 31.05.2018 were passed in their favour by the Trial Court in F.C. Suit No. 145/2013, and Execution was allowed vide an Order dated 17.08.2023². Against the said Execution Order, the instant Respondents filed a Civil Revision Application No. 42 of 2023³ before the Additional District Judge IV - Larkana, from which the Impugned Order was passed, which set-aside the Execution Order. It is against the Impugned Order that this Petition has been filed.

3. It is the contention of the Petitioners that the Civil Revision Application was heard and decided, after which the ADJ IV Larkana set-aside the Executing Court's Order, with the following conclusion (operative part reproduced below):

5. *“The enforcement of the decree dated 31.05.2018 is hereby stayed, and the judgment debtors or Mukhtiarkar Estate/Barrage Mukhtiarkar Larkana are granted a period of one month from the date of this order. This extension is*

¹ Available at Page No. 35 of the File

² Available at Page No. 17 of the File

³ Available at Page No. 27 of the File

provided to facilitate their application before this Court under Section 12(2) CPC, contesting the legitimacy of the aforementioned decree, as per the directives of this Court's order dated 31.10.2023, rendered on Mukhtiarkar's Civil Revision Application No. 38/2023. The order is made accordingly, and no costs are imposed."

4. Counsel continued that the Revisional Court did not have any such jurisdiction to interfere with the Execution Order, and that the Impugned Order is erroneous under law. In support of his contentions, he has relied upon the case law reported as PLD 2012 SCMR 65.

5. Learned A.A.G. appearing on behalf of the Respondents has opposed this Petition and states that the Impugned Order set aside the Decree for a one-month time period to enable the Respondents to file an Application under section 12(2) Civil Procedure Code 1908 (for challenging the Decree), which, as per the learned A.A.G. was legally permissible. In support of this contention, he has referred to Order 21 Rule 26 of the Civil Procedure Code 1908 ("**CPC**"), which he submits empowered the Court to stay the Execution proceedings.

6. I have heard the learned counsels for the Parties and with their assistance gone through the record, after which I have found as below:

A. The Impugned Order has set-aside the Execution Order in a manner which does not appear consonant with the law. The Revisional Judge has granted the Respondents / Judgement Debtor benefit of setting aside the Execution Order to *facilitate their application before him under section 12(2) CPC*.

B. The language used in the said concluding Para No. 5 (*supra*) of the Impugned Judgement appears dubious in nature. It is bewildering as to why the Revisional Judge has granted the Respondents a one month reprieve time-period for filing of a section 12(2) CPC Application before him? It is not the duty of the Court to guide any party to pursue potential further legal action against the other; let alone overturn a Decree to facilitate the same. The Court must act in a non-partisan manner and decide a matter before it only according to its legal merits.

C. Additionally, it must be kept in mind that the ADJ IV - Larkana was acting under a *Revisional Jurisdiction*, which is of course limited in its nature. In *Abdul Khaliq's* case,⁴ the Supreme Court observed the following limitations of the Revisional Court:

“18. Additionally, the revisional Court in its impugned judgment also seems to have not taken into account the limited scope of its jurisdiction under section 115, C.P.C. which is primarily meant for correction of jurisdictional defects in the proceedings or some patent illegality/ irregularity affecting the merits of the case and not merely for substituting and replacing its own findings with the findings of the appellate Court, unless the same were found to be arbitrary, perverse, fanciful and based on misreading or non -reading of material pieces of evidence, which is not the position in the case in hand.”

D. As opined *ibid.*, the purpose of the Revisional Jurisdiction is for correction of jurisdictional and/or such other material irregularity / defects in the proceeding below, none of which have been mentioned in the Impugned Order. The Impugned Order has set-aside the Decree and Execution Order by substituting its own findings in its place, which also cannot be done due to the limited scope of a Revision (*discussed above*). This view has consistently found its place in our jurisprudence, and was recently bolstered by the Supreme Court in the case of *Pir Shah Abdul Haq v Muhd. Irfan & Ors.*⁵ where it was (*inter alia*) held:

“there is a difference between the misreading, non-reading and misappreciation of the evidence therefore, the scope of the appellate and revisional jurisdiction must not be confused and care must be taken for interference in revisional jurisdiction only in the cases in which the order passed or a judgment rendered by a subordinate Court is found perverse or suffering from a jurisdictional error or the defect of misreading or non-reading of evidence and the conclusion drawn is contrary to law.”

E. Furthermore, a relevant portion of the conclusion in the Impugned Order remains unclear. The Revisional Court 'stayed' the Decree obtained by the

⁴ Reliance is placed 2012 SCMR 508

⁵ 2026 SCMR 1019

Petitioners for a period of one-month, but failed to mention under which legal provision the same was done? Nor does the Impugned Order express what the status of the Decree becomes once the one month 'stay' period expires? Such vagueness and lack of legal support cannot be tolerated, especially by an Order which has the effect of setting aside a decree and overturning an execution order.

- F.** The Impugned Order also *set-aside* the Execution Order dated 31.05.2018 and enforcement of Decree dated 17.08.2023 without providing any grounds to do so. The very purpose of an Executing Court is to enforce a decree through the process of *execution*, which it duly did in the instant matter. The Impugned Order has failed to provide any lack of jurisdiction or other material irregularity committed on the part of the Executing Court, which would therefore not have required any interference by the ADJ IV Larkana under its Revisional Jurisdiction.
- G.** Therefore, for reasons aforementioned, I find that the Revisional Court travelled beyond its mandate and the Impugned Order is without legal support.
- H.** Accordingly, the Impugned Order dated 31.10.2023 passed by the Additional District Judge – IV Larkana, in Civil Revision Application No. 42 of 2023 is hereby set aside.

Petition Allowed

Judge

Abdul Salam/P.A ***