

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Civil Revision No.S-242 of 2024

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE.
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- 1. For orders on O/objection at flag-A.
- 2. For hearing of main case.
- 3. For hearing of CMA No.1629/24.

26.10.2026

Mr. Abdul Mujeeb Shaikh, Advocate for Applicant.
Mr. Ahmed Ali Shahani, AAG.

ORDER

Applicant has challenged the Appellate Court Judgment in which the matter was remanded to the Trial Court with direction to comply the earlier direction of the Appellate Court recorded in the Judgment and decree dated 21.08.2023, *inter alia*, for Survey of land through Survey Superintendent so that proper measurement of suit Property including adjoining Survey Numbers can be brought on record.

2. Learned counsel for the Appellant has referred to the Judgment dated 02.11.2023 in post-remand proceeding and pointed out that under Issue No.1 and 2 a comprehensive discussion about the evidence of Survey Superintendent and the Report is mentioned, yet the above impugned remand Judgment has been passed. He has also referred to the deposition of the Survey Superintendent.

3. Conversely, the learned counsel for the Respondents supports the impugned Judgment. He requests time to prepare the matter on the ground that he has recently been engaged. As the matter has been fixed for hearing and involves a limited controversy, the request for adjournment is declined.

4. Heard and Record considered.

5. The pleadings are perused. In response to the averments in the Complaint, the Respondents have filed amended written statement (at page-57 of the Court file) and has stated about the Survey to be done by the Survey Superintendent, Khairpur, besides, acknowledging that the Appellant used to cultivate the crop and wheat at the disputed portion.

6. F.C Suit No.116 of 2011 is filed around Fifteen years back in which dispute is about few ghuntas of land. This is the second remand Judgment handed down by the Appellate Court although the entire testimonies and the documents produced in the evidence are available on record.

7. The Trial Court in post-remand proceeding has specifically dealt with the issue of Survey of land (as discussed above). Even if there is some lacking, the Appellate Court instead of remanding the matter back to the Trial Court could have directed the re-survey and if required even invoked, *inter alia*, Rule 27 of Order 41 of CPC, a procedure of recording the additional evidence.

8. The Appellate Court being Court of the final facts, also have the original jurisdiction in term of Section 107 of CPC. Of late it is observed with concern, that the First Appellate Courts have started remanding the cases to the Trial Courts even for appraisal/re-appraisal of the evidence, which should have been done by the Appellate Court(s). For trivial things, cases are remanded very conveniently, but without realizing the inconvenience of the litigants. We all have to be mindful of the fact, that citizens (persons/litigants) approach the Courts for redressal of their grievances, and it is our constitutional obligation to resolve and redressed such grievance expeditiously, within the Constitutional and statutory parameters, **and not to aggravate such grievances, by not**

properly exercising the jurisdiction conferred upon the Appellate Court.

In certain cases, the remand Orders under challenge, can have adverse consequences, from the administrative perspective. The First Appellate Court should not remand the matter in a routine manner, but only in exceptional circumstance; for instance, if there is a exparte judgment (decree) and the defendant(s) undertake to lead evidence before the Trial Court; judgment under Order 17 Rule 3 of CPC and other cases where a remand to the Trial Court is imperative.

9. Ironically due to maladministration in the Government Departments, citizens approach the Courts with a high hope of getting justice, after failing to get any administrative justice from the Government Departments. In this challenging situation, one has to go an extra mile to decide the case of a genuine litigant expeditiously and not in the manner as decided through the impugned Judgment.

10. In view of the above, the impugned Judgment requires interference as it has not properly exercised the jurisdiction conferred upon the Appellate Court. Judgment is set-aside, matter is remanded to the Appellate Court for its re-consideration in view of the above observations. The Appeal should be decided within four weeks from today.

J U D G E

Ihsan/PS.