

ORDER SHEET

IN THE HIGH COURT OF SINDH AT KARACHIBefore:

Ahmed Ali M. Shaikh, CJ

Yousuf Ali Sayeed, J

CP No.D-6612 of 2020

For orders as to the maintainability of the petition

07.10.2021

Mr. Shahzad Nizam, Advocate for the petitioner lated Syed Shamimuddin Ahmed through his LR's.

AHMED ALI M. SHAIKH, CJ.- Through this Constitution Petition the legal heirs of Petitioner late Syed Shamimuddin Ahmed have assailed an order dated 27.10.2020 rendered by the IXth Additional District and Sessions Judge, Model Civil Appellate Court, Karachi East, maintaining the order dated 15.2.2020 passed by the IIIrd Senior Civil Judge, Karachi East, in Civil Suit No.395 of 2018, whereby Petitioner's Application under Order VII Rule 11 CPC was dismissed.

2. Briefly stated facts as mentioned in the Petition are that Respondent has instituted a Civil Suit bearing No.395 of 2018 seeking declaration, specific performance of sale agreement/contract and permanent injunction against the Petitioner, who filed an Application under Order VII Rule 11 CPC seeking rejection of the plaint for being barred under the Limitation Act. After hearing, the said application was turned by the trial Court vide order dated 15.02.2020, which was impugned through a Civil Revision Application No.51 of 2020. However, the said Revision was also dismissed vide impugned order.

3. Learned counsel for the Petitioner contends that the suit instituted by the Respondent/tenant was hopelessly time barred but the said aspect was miserably overlooked by the Courts below. However, during course of arguments when learned counsel was asked as to whether any fundamental right of the Petitioner has been violated he remained mum.

4. We have considered the contention advanced by the learned counsel for the Petitioner and scanned the record including the impugned orders passed by the two forums below where it was essentially held that the matter of limitation was a mixed question of law and fact hence could be properly resolved after evidence. It is well settled position that the scope of a Constitution Petition against orders passed in Civil Revision are quite narrow and this Court can interfere only in case of any glaring violation of law. Moreover, powers of this Court under Article 199 of the Constitution are purely discretionary and meant to foster the cause of justice and fair play. That being so, we see no concrete reason for interference through the instant Petition under the Extraordinary Writ Jurisdiction of this Court. The Petitioner may raise his objections before the trial Court by seeking framing of an issue as to maintainability on the ground of limitation.

For the foregoing reasons, this Petition is dismissed.

Chief Justice

Judge