

**IN THE HIGH COURT OF SINDH AT KARACHI**

**Civil Revision Application No. 149 of 2011**

**Present**

**Mr. Justice Muhammad Jaffer Raza**

Mst. Noor Jehan..... Applicant.

Versus

The Deputy District Officer, Land  
Management K.D.A. Wing & others..... Respondents.

Mr. Muhammad Ali Waris Lari, Advocate for the Applicant.

Mr. Muhammad Aqil Zaidi, Advocate for the Respondents/KDA.

Date of Hearing: 15.04.2025.

Date of announcement: 20.05.2025

**J U D G M E N T**

**MUHAMMAD JAFFER RAZA – J:** The instant Revision Application has been preferred against the judgment dated 31.05.2011 passed in Civil Appeal No.43/2011. The said Civil Appeal emanated from the judgment of the Trial Court dated 18.02.2011 passed in Civil Suit No.102/2011.

2. Brief facts of the case are that the Applicant filed the above-mentioned Civil Suit for permanent injunction with the following prayer clauses: -

- “1. To direct the KDA for clarification about the matter.
2. To direct the concerned SHO inquire and investigate from the concerned department about the matter to submit the report to this Honourable Court.
3. To Notice and grant the stay for any proceeding and stopping for further erection and constructing of the suit building/property to the concern department till the final decision of this Honourable Court.
4. Cost of suit or any other relief which this Honourable Court may deem fit and proper in the circumstances of the case may be granted.”

3. Thereafter, the plaint of the Applicant was rejected vide order dated 18.02.2011. Thereafter, the Applicant preferred the above noted Civil Appeal which was dismissed vide impugned order.

4. Learned counsel for the Applicant has argued that primarily the ground on the basis of which the plaint has been rejected, is that the suit was filed for permanent injunction and no specific declaration in respect of the suit property has been sought in the above noted suit. Learned counsel has argued that the suit, as framed, is maintainable and did not warrant rejection under Order VII Rule 11 CPC. Learned counsel has further argued that cause of action was clearly mentioned in paragraph No. 11 of the plaint and findings of both the Courts below in respect that no cause of action accrued to the Applicant is legally unsound. Learned counsel in support of his contention has relied upon the following judgments: -

- *Investment Corporation of Pakistan vs. S. Ahmed S. Ahmed Sarwana (Advocate)*<sup>1</sup>;
- *Vazir Ali and 5 others vs. Hanif*<sup>2</sup>;
- *Muhammad Rauf Qadir Junadi vs. City District Government Karachi & others*<sup>3</sup>;
- *Mst. Sahar Begum vs. Salahuddin*<sup>4</sup>;
- *T.M.A. Samundri through Administrator and 3 others vs. Abdul Ghafoor*<sup>5</sup>;
- *Rasheed Khan vs. Muhammad Khan and others*<sup>6</sup>;
- *Pakistan Water and Power Development Authority through its Project Director vs. Pakistan Atomic Energy Commission Employees Cooperative Housing Society Ltd., Islamabad*<sup>7</sup>;
- *Ghulam Nabi and others vs. Seth Muhammad Yaqub and others*<sup>8</sup>;
- *Rashid Ahmed vs. Federation of Pakistan through Secretary Ministry of Communication (Communication Division) Islamabad and another*<sup>9</sup>;

---

<sup>1</sup> 1987 MLD 2442 [Karachi]

<sup>2</sup> 1990 CLC 1842 [Karachi]

<sup>3</sup> SBLR 2012 Sindh 792

<sup>4</sup> 1991 MLD 1594 [Karachi]

<sup>5</sup> 2013 CLC 333 [Lahore]

<sup>6</sup> 2012 CLC 1113 [Peshawar]

<sup>7</sup> PLD 1993 Lahore 237

<sup>8</sup> PLD 1983 SC 344

<sup>9</sup> 1998 SCMR 405

- *S. M. Shafi Ahmed Zaidi through Legal Heirs vs. Malik Hassan Ali Khan (Moin) through Legal Heirs*<sup>10</sup>;
- *Haji Muhammad and another vs. Government of Punjab through Collector, District Kasur and another*<sup>11</sup>;
- *Abdul Mannan Fakir vs. Province of East Pakistan and others*<sup>12</sup>;

5. Conversely learned counsel for Respondent No.1 has argued that plaint of the suit was correctly rejected by the learned Trial Court as the same is not maintainable. He has further argued that the Applicant has no *locus-standi* to file the above suit and the orders of both the Courts below require no interference of this Court.

6. I have heard learned counsel for the parties and perused the record. It is evident that primarily the suit was filed by the Applicant for permanent injunction and the plaint was rejected on the grounds mentioned above. This precise question came up for deliberation in the case of *KPT Officers Cooperative Housing Society Limited, Karachi Versus Government Of Sindh through Chief Secretary and 23 others*<sup>13</sup> wherein the learned single judge of this court held as under: -

*“18. Mindful to the nitty-gritties of the case, I feel no reluctance to hold that this suit for permanent injunction is maintainable without seeking relief of declaration.”*

7. Light was shed into the matter by the Honourable Supreme Court in the case of *Muhammad Ilyas Hussain versus Cantonment Board, Rawalpindi*<sup>14</sup> wherein it was held as under: -

*“It is not always necessary for him to have sued for the declaration of his title as a substantive relief and asked for the injunction as a consequential relief only.”*

8. It is imperative to hold that the that the learned Appellate Court erred whilst adjudicating the above-mentioned civil appeal. The learned Appellate Court reached a conclusion that none of the ingredients of interim injunction were established by the Appellant and thereafter upheld the finding of the learned Trial

---

<sup>10</sup> 2002 SCMR 338

<sup>11</sup> 1994 CLC 1248 [Lahore]

<sup>12</sup> PLD 1965 Dacca 361

<sup>13</sup> 2019 Y L R 1671

<sup>14</sup> P L D 1976 Supreme Court 785

court, rejecting the plaint. Further, both the courts below failed to distinguish the distinction between “*having*” a cause of action and “*disclosing*” a cause of action. It is a well settled principle of law, expounded in the case of **Shaheen Nasir Khan versus Mst. Asmat Ara**<sup>15</sup> that a plaint can only be rejected if it does not disclose a cause of action.

9. In light of above the instant Revision Application is allowed and the matter is remanded back to the learned Trial Court with direction to decide the same on merits within sixty (60) days from today.

J U D G E

Nadeem Qureshi “PA”

---

<sup>15</sup>PLD 2002 Karachi 408