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ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.

Civil Transfer Appln. No. S- 18 of 2023.

Date of hearing

Order with signature of Judge.

For non-prosecution.

01.3.2024.

Mr. Abdul Hamid Bhurgri, A.A.G.

ORDER.

None present for the applicant. Respondents No.18 and 20 present in person.

Pursuant to directions contained under previous order the trial Court has submitted progress report through learned District Judge, Kamber Shahdadt, perused and taken on record. It will be appropriate to reproduce crux of the progress report which reads as under:

" I have the honor to submit with reference to subject quoted above, the comments in F.C suit No. 39/2022 with regard to status of proceedings of application U/S 12(2) C.P.C in I.C suit No.82/2020 and execution Application connection with the said suit, are as under:

That the F.C Suit No.82/2020 (Re- Ghulam Shabir & others vs. P.O Sindh & others) titled as suit for Declaration, Possession and permanent injunction was filed by Applicant/Plaintiff before this Court on 08.12.2020, thereafter it was ex-parte decreed through vide Judgment dated: 30.09.2021. Afterward, the Applicant has filed execution application, whereupon the JDs have filed objections now matter is fixed for arguments from Applicant/DH side on 14.02.2024.

That the Defendants/Respondents have filed an application U/s. 12(2) C.P.C R/w O. IX, rule 13 C.P.C against the alleged ex-parte Judgment and decree on 23.01.2023, whereupon Applicant/Plaintiffs have filed objections on 04.02.2023. This Court has framed issues on the Application U/s. 12(2) C.P.C. Both parties have completed their evidence on such application and matter is fixed for arguments from Applicant/Plaintiff side on 14.02.2024.

That the captioned Application U/S 12(2) C.P.C was fixed before this Court for 29 times on hearings and adjourn 21 time on the request of Applicant/Plaintiff on one or other reasons. Execution application was also adjourn on several hearings on the request of Applicant/DH.



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The undersigned denied all allegations made in the subject application being false, managed and beyond reality.

It is respectfully submitted, undersigned has sent earlier comments and progress detail report of the Application U/S 12(2) of F.C.Suit No.82/2020 and Execution Application connected with the same suit."

In view of report submitted by the trial Court, it reveals that the applicant intends to linger on the proceedings instead of proceeding with the case. Instant transfer application seems to have been filed only to defeat the interest of justice and nothing else. It is settled law that case can not be transferred or withdrawn upon the wishes and whims of the party (ies) as a matter of routine. In instant case, the applicant wants to mould the process and procedure according to his wishes, which can not be permitted. Accordingly and in view of above, instant transfer application is hereby dismissed. The trial Court is directed to expedite the proceedings and conclude it within one month time upon receipt of this order as well as under intimation to this Court. A copy of order shall be communicated to trial Court through learned District Judge, Kamber Shahdadkot for compliance.

JUDGE

shabir

Directions:

D/o
matter

① For orders on Intimation letter/compliance report of trial court as flag 'B'