

R.A No.66/2009

Present: Mr. Justice Nazar Akbar

Date of hearing : 26.09.2016

The brief facts of the case are that the applicant has filed Civil Suit No.1311/2000 for declaration, recovery of possession and cancellation of documents and mense profit against the respondents. The said suit was dismissed on merits since the claim of appellant that he was actual owner

of the suit premises bearing Plot No.B-25 Block-18 Samanabad F.B.Area Karachi admeasuring 333 sq.yds was declined on the basis of evidence as observed by the appellate Court in the impugned judgment. The perusal of judgment and documents filed by the applicant clearly indicates that the suit property has been subject matter of several litigations prior to filing of the suit by the applicant and in all those litigations even Nazimuddin, the present applicant, was party which have been finally disposed of.

The applicant himself has filed annexure A/5, which is judgment dated **12.02.2000** in suit No. 832/1997 which was filed by Respondent No.1. The judgment was against the applicant and respondent No.1 was declared exclusive owner of the suit bearing double storied House No.B-25 Block No.18 Samanabad F.B. Area, Karachi. The applicant who was J.D No.1 in Suit No.832/1997 after seven (7) months has filed suit No. 1311/2000 which was renumber as Suit No. 818/2002 in respect of the same property against the Decree Holder. It was dismissed on **30.10.2006**. Even appeal was also dismissed. After dismissal of appeal he has filed this revision with delay of several months and in support of his application he has filed one medical certificate and one prescription of a doctor where date of illness is shown as between **15.8.2008** to **15.2.2009**. I have examined the certificates and I am not persuaded to condone such a long delay merely on a medical certificate produced by the applicant who was under treatment as outdoor patient. The certificate does not say that he was hospitalized. He was not seriously unable to engage a counsel or give attorney to someone to file revision on his behalf. Even on merit the factual controversy on the basis of evidence cannot be interfered with by this Court in revisional jurisdiction.

One more ground for dismissing this revision is that applicant was required to file complete proceeding of the trial court as required under **Section 115 CPC** alongwith memo of revision application in 2009. The applicant has not filed even impugned judgment and decree of the trial court in (Suit No.1311/2000) New No.818/2002 and many other relevant documents which including the evidence therefore, I do not see any justification to allow this application.

In view of the above, revision was dismissed by short order dated 26.9.2016, these are reasons for the same.

JUDGE

Karachi

Dated:_____