

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

RA No.179 of 2000

Date	Order with signature of Judge
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1. For hearing of CMA No.1898/2000
2. For hearing of Main Case

18.04.2016

None present for the applicant.
M/s.Sadiq Hidayatullah, & Alliya Sultana
advocates for the Respondent.
Mr. Tahawar Ali Khan, advocate for KDA.

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This civil revision is pending since 15.09.2000 against the concurrent findings. The applicant filed suit for declaration, cancellation, partition and possession with mesne profit against the Respondent No.1 bearing suit No.1202/1997 which was dismissed by the judgment and decree dated **19.10.1999** and the appeal against the dismissal bearing civil appeal No.176/1999 was also dismissed by the IInd Additional District Judge (East) Karachi by judgment dated **18.5.2000**.

The brief facts of the case are that the applicant claimed that Quarter No.E-71, admeasuring 120 sq.yds in Korangi Township, Karachi (suit property) was allotted to one Bashiruddin vide Allotment Order No.168/23 dated 22.8.1959, the father of applicant and Respondent No.1. However, the mutation was effected in official record in favour of applicant instead of all the legal heirs of said Bashiruddin. At the relevant time, the applicant was in India and she came to Pakistan after the death of even her mother who died after the death of her father. She claimed share in the suit property and sent a notice to KDA on **12.11.1997** in terms of **Article 131** of K.D.A Order 5 of 1957. Applicant through the suit sought possession of the suit property. The Respondent No.1 denied all the allegations in the written statement. Trial court framed the following issues.

- i. Whether the suit is not maintainable according to law?
- ii. Whether the Defendants by concealment of the facts and fraud have transferred the suit quarter to the Defendant No.1 by way of inheritance of gift?
- iii. Whether the Plaintiff was not given any notice by the Defendants at the time of transfer of the suit quarter in the name of Defendant No.1 (Raeesa Begum)?
- iv. Whether the Plaintiff is entitled to the claims/relief made in the prayer clause of the suit?
- v. What should the decree be?

The applicant herself has not appeared in the witness box and she appeared through attorney and Respondent No.1 appeared herself in witness box and also produced Assistant Director KDA as one of the witness and produced relevant documents required to effect mutation. On the issue of maintainability, the trial court declared that the suit was not maintainable by holding that the relief of declaration was hopelessly time barred and other issues were also decided against the applicant as the allegation of fraud could not be proved. The appeal was also dismissed and the applicant has failed to establish even at appellate stage that she is entitled to inheritance in the suit property.

The counsel for the applicant has filed this revision against concurrent findings has never seriously attempted to proceed with this application. Record shows that this revision was filed by Mr. Abul Inam, advocate but on 02.2.2016 after gap of 09 years of his last appearance, learned counsel for the applicant has withdrawn his power after complying with the requirement of Rule 5 of Sindh Chief Court Rules.

I have gone through the memo of revision application and heard the learned counsel for the respondent. There is hardly any defect in the impugned orders. Not a single piece of evidence has

been marked or pointed in the memo of revision application, which could be treated misreading and non-reading of evidence at the level of trial court and the appellate court. Concurrent findings cannot be set aside on bold statement of applicant in the memo of revision claiming there was misreading and non-reading of evidence. Neither the reading of evidence suggests that there was any evidence, which seems to have been overlooked by the trial court nor any document is on record to justify applicants claim of inheritance in the estate of respondent's father. The factual findings of the courts below cannot be interfered in the given circumstances.

In view of the above, this revision is dismissed with no orders as to costs.

JUDGE

SM