

ORDER SHEET
**IN THE HIGH COURT OF SINDH,
CIRCUIT COURT HYDERABAD**

R.A. No. 38 of 2010

DATED ORDER WITH SIGNATURE OF JUDGE

29.05.2017

For katcha peshi

Mr. Kamaluddin, Advocate for applicant

Mr. Muhammad Saleem Hashmi Qureshi, Advocate for respondent

Learned counsel for applicant raised a preliminary legal issue as to the judgment impugned which is allegedly passed in violation of order 41 Rule 31 CPC. Counsel contended that the 11 issues were framed by the Trial court, however, the Appellate Court summarily decided the appeal relying on certain evidence thereby have not rendered a comprehensive judgment in which all the contentions / points of the matter were addressed.

Learned counsel for the respondent contended that the survey report was a critical document which determined the boundaries of the applicant's land vis-a-vis the area on which the respondents are residing and per counsel the technical expert's report clearly indicated that the land required by the petitioner does not fall part of the land which the appellant is claiming ownership.

Be that as it may, the counsel present consented that the matter be remanded to the Appellate Court to pass full and speaking judgment fulfilling all the requisites of Order 41 Rule 31 CPC. However an opportunity of adducing additional evidence in the circumstances laid down under Order 41 Rule 27 CPC be provided to the respondents. Learned counsel for applicant, however, as to the adducing of additional evidence submitted that such evidence must strictly be in compliance with Order 41 Rule 27 CPC.

In the given circumstances the instant Revision Application is allowed to the extent that the case is remanded to the Appellate Court for rehearing and passing judgment satisfying the requisites of Order 41 Rule 31 CPC within six months the benefit of Order 41 Rule 27 CPC as far as applicable be given to the parties.

JUDGE