

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

R.A. No. 16 of 2014

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**DATED**                      **ORDER WITH SIGNATURE OF JUDGE**

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29.05.2017

1. For katcha peshi
2. For hearing of MA 572/14

Mr. Karamullah Memon, Advocate for APPLICANTS  
Mr. Ashfaq Nabi Qazi, Asstt: A.G.

The counsel contends that the only contention before this court is to determine as to whether there is any illegality in the impugned order which was passed on 12(2) CPC application filed by the respondent No.2 against the judgment and decree passed in F.C. Suit No. 78 of 1996. Learned counsel appearing for the applicant contended that his client was not in knowledge of the judgment, therefore, they are unable to file any appeal and when they came to know about it after 07 years they filed the said 12(2) application. A review of the impugned order shows that this aspect has been fully considered by the Appellate Court when the Appellate Court passed the following order:-

“ I have heard learned counsel for the applicant / respondent No.2, learned DDA and perused available record. It appears that two senior lawyers of this district Sanghar were engaged by the respondent No.2 namely Mr. Mehboob Illahi, advocate and his power is on record, which bears the signature of respondents as well as Mr. Mirza Saleem Baig, advocate was also appointed by the respondents. If the contention of the respondent No.2 is taken to be gospel truth that he never engaged any counsel to proceed this appeal then when it came into his knowledge about the vakalatnama of two senior counsels at least he should had proceeded against them in the Sindh Bar Council for mis-representation and fraud and upon query course of arguments learned counsel for respondent No.2 submitted that no any action was taken against the said counsels in any forum. Admittedly no any appeal was filed against the judgment and decree dated 8.7.2004 and admittedly application hit by Section 81 of Limitation Act especially in absence of legal proceedings against the counsels, which was necessary, therefore, it cannot be considered that judgment and decree obtained by way of fraud and misrepresentation.”

In the above circumstances no new ground having been agitated by the counsel for the appellant and a review of the impugned order does not show any material irregularity committed by the Appellate Court. This Revision Application is accordingly without merit and dismissed.

JUDGE