

ORDER SHEET  
IN THE HIGH COURT OF SINDH,  
CIRCUIT COURT, HYDERABAD  
C.P.No.D-1584 of 2015

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**DATE**

**ORDER WITH SIGNATURE OF JUDGE**

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03.5.2017.

Mr. Naimatullah Soomro, Advocate files Vakalatnama on behalf of the petitioner which is taken on record.  
Ch. Bashir Ahmed Assistant A.G.

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Abdul Malik Gaddi, J: Through instant constitutional petition, the petitioner has assailed the legality and propriety of the order dated 10.3.2015 passed by the learned District Judge Shaheed Benazirabad in Civil Revision application No.2 of 2015 whereby the learned District Judge Shaheed Benazirabad after hearing the parties rejected the plaint U/O VII Rule-11 CPC in F.C.Suit No.484/2013 filed by the petitioner and set aside the order dated 18.12.2014 passed by the learned 1<sup>st</sup>-Senior Civil Judge Nawabshah whereby he dismissed the application U/O VII Rule-11 CPC.

Perusal of record shows that petitioner filed a Civil Suit No.484 of 2013 for declaration, possession, mesne profit and permanent injunction against the respondents in which written statement was filed by the official respondents, issues were framed and matter was fixed for evidence. The respondents at that juncture filed an application U/O VII Rule-11 CPC which was dismissed by the learned trial court vide order dated 18.12.2014, as mentioned above.

Today case is fixed for arguments. After arguing at some length learned counsel for the parties have agreed that since in this matter issues have been framed and matter is fixed for evidence, therefore, it would be proper to set aside the impugned order and remand the case to the learned trial court to

decide the suit after recording the evidence of both sides and giving proper opportunity of hearing to them.

As observed above, in this matter issues have already been framed and matter is ripe for evidence as stated by the parties counsel, we have perused the pleadings of the parties showing that parties are seriously at issue, therefore, the court instead of rejecting the plaint could decide the dispute by referring to the evidence. Order of rejection of plaint was not warranted in the circumstances. In this regard we are supported with the case of Mst. Kareem Bibi & others Vs. Zubair & Others reported in 1993 SCMR-2039. Consequently the impugned order passed by the learned Revisional Court is set aside and the case is remanded to the learned trial court to decide the case in accordance with law as early as possible preferably within a period of three months after receipt of this order. The compliance report be submitted through Additional Registrar of this court.

JUDGE

JUDGE

A.Rasheed/