

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

R.A. No.336 of 2010.

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection and reply of the Advocate for applicants.
2. For katcha peshi.
3. For hearing of C.M.A-1153 of 2010.

15.12.2017.

Mr. Wali Muhammad Jamari, Assistant A.G.

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Learned AAG refers to the publication filed with the statement dated 21.03.2013; based upon the same, service upon the respondent effective from the said date of publication, and no objection coming forward the matter is considered for hearing.

2. Learned AAG states that the facts of the matter are that the respondent had acquired the contract against a total consideration of Rs.1,75,000/- and paid only a meager amount of Rs.10,000/-, the balance was to be paid by way of four installments. Respondent started the work, however, unable to perform / complete the same on account of law and order situation, the applicant No.3 (Divisional Forest Officer), much later in time made the demand for the outstanding amount wherein the respondent initiated the instant proceedings against the applicants and succeeded in obtaining an ex parte decree in the amount of his claim i.e. Rs.3,30,930/-. The said decree was assailed by the applicants before the learned appellate Court, the same however remained intact and as such the instant revision.

3. Having heard the learned AAG and gone through the record, it is observed that the respondent was genuinely unable to perform / complete the contractual work on account of law and order situation the contract as such got frustrated either on account of Force-majeure [act of God (not discussing the human element)], or otherwise, irrespectively not within his powers to control. In the circumstances, the counter liabilities as cropping up in the matter were not available no demand was required to be made on part of the applicants, nor the respondent can claim any lose / damage. In the present

circumstances, this revision application is accepted and the order of the learned appellate Court is set aside along with the order of the learned trial Court. The respondents as such however also cannot claim any amount from the applicants and similarly the applicants have no claim left against the respondent. The revision application stands disposed of with no orders as to costs in the circumstances.

JUDGE

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