ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

R.A. No.162 of 2007.

DATE	ORDER WITH SIGNATURE OF JUDGE

1. For katcha peshi.
2. For hearing of C.M.A-1137 of 2007.

06.11.2017.

Mr. Arbab Ali Hakro, Advocate for the applicants.

Mr. Wali Muhammad Jamari, Assistant A.G.
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MAHMOOD A. KHAN, J.- By this revision application, applicants has impugned the judgment dated 06.08.2007, passed by the learned Additional District Judge, Kotri, in Civil Appeal No.02 of 2001, whereby the said civil appeal filed by the applicants was dismissed and the judgment and decree passed by the learned trial Court were maintained.

2. Learned counsel for the applicants states that the points for determination as framed by the learned Appellate Court were not in accordance with Rule 41 Rule 31 CPC prescribing three factors therein. It is also contended by the learned counsel for the applicants that suit was filed on the basis of rights available under sections 52, 53 and 42 of the Land Revenue Act, which provides an opportunity of exercising civil jurisdiction based upon the rights of the parties. It is also contended on part of the learned counsel for the applicants that the rights of ownership under such matters are to be decided by the civil Court as the same are not open for the consideration of Land Revenue Authorities. It is also contended by learned counsel for the applicants that no negative evidence against him was presented before the learned trial Court and as such his suit was not liable to be dismissed. Learned counsel in this regard relies upon **1996 SCMR 669, PLD 2008 Supreme Court 571, 1995 MLD 1458, 2007 MLD 884, PLD 2015 Sindh 445, 1980 CLC 498, 2000 CLC 1352, 2010 CLC 120, 2004 YLR 2992, 2004 YLR 2546** and **2007 MLD 1110.**

3. Learned AAG in opposition to the revision application, states that the entries were disputed as to the area whereas the ownership was not questioned and that the applicants have failed to disclose the existence of the Deputy Commissioner's order dated 23.12.1989, wherein the claim of the applicants as given therein was restricted to 18 acres and not 180 acres.

4. Having heard the learned counsels, a question was put up by this Court to the learned counsel for the applicants as to whether any material other than the entries was presented by the applicants during the proceedings to which the answer came in negative. I am unable to understand as to how the entries relied upon by the applicants were kept on the record to the extent of 180 acres after passing of the order of the higher revenue hierarchy referred above dated 23.12.1989. As to my humble understanding the revenue record with regard to 180 acres is in contradiction to the determination of the Deputy Commissioner and the entries were liable to be changed accordingly. However, for reasons best known to the concerned the said order was never acted upon although it is part of the record that no proceedings further to the said order ever took place. Thereafter, no correction was made based upon the said order. Definitely it has been considered repeatedly by this Court as well as the Honourable Superior Court that the entries of Revenue Record are taken to be corrected until and unless the said correction stands rebutted.

5. In the present case nothing has been shown to me whereby the order of the Deputy Commissioner is not liable to be considered to correct the record from the Mukhtiarkar to which reliance has been placed in the whole proceedings. The record further does not show that the said Mukhtiarkar who had produced the record was called in-questioned as to the correctness of those entries the matter having thrashed by the lower Courts also does not bear any element whereby the orders passed can be considered to be in violation of what was the record present before them. As to there being negative evidence having been brought on record, it may be observed that the revenue entries in such circumstances require support from other material as is being relied upon in order to acquire the sanctity attributed.

6. With the above discussion, I do not find any merits in this revision requiring interference in the impugned orders present. The instant revision stands dismissed with costs of the proceedings.

JUDGE

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