

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

R.A. No.112 of 2011.

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DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For katcha peshi.
2. For hearing of M.A-311 of 2011.

07.12.2017.

Mr. Wali Muhammad Jamari, Assistant A.G. for the applicants.

Mr. Muhammad Qadeer Khokar, Advocate for the respondent.

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Learned Assistant A.G. states that these proceedings pertain to recovery of amount against land acquisition termed as specific performance, however, in this matter proper opportunity of hearing was not available to the applicants and as such the matter was decided against the applicants although, controversies were present and were so considered by the learned trial Court as such issues were accordingly framed. It is further contended that the learned appellate Court has also failed to consider these elements.

2. Learned counsel for the respondent draws attention of this Court to the judgment passed by the learned trial Court as well as the conduct of the respondent recorded by the learned appellate Court. It is contended that the learned trial Court in the matter had passed the judgment on account of failure of proceeding for cross-examination by dismissing the adjournment application moved on behalf of the applicants. The matter of non-entertainment was considered by the learned appellate Court however based upon the conduct of the respondent as bearing from the record with specific dates, the learned appellate Court has preferred not to interfere with the judgment as passed by the learned trial Court.

3. Having heard the learned counsels and gone through the record with their assistance, while no ground is found available to entertain the revision as contended it was observed while going through the judgment as passed by the learned trial Court that the suit of the respondent was decreed as prayed and this was kept intact by the learned appellate Court which

findings as to the mesne profits are also given which required ascertainment on part of the learned trial Court, reasons / findings of which have to be independently acquired. The judgment announced under Order XVII Rule 3 C.P.C. as made in the present matter cannot be stretched to such relief. On pointation, learned counsel for the respondent agrees to forgo the same as otherwise the consequence could have been to remand of the matter.

4. In the circumstances, with only the prayer for exclusion of mesne profits as given in the proceedings no ground has been shown whereby this revision application can be entertained, as such it is ordered that the same stands dismissed however the prayer as to the mesne profits shall not be available in the circumstances, but with no orders as to costs.

5. Revision application stands disposed of alongwith listed application as given above.

JUDGE

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