

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

R.A. No.340 of 2010

DATE

ORDER WITH SIGNATURE OF JUDGE

1. For Katcha Peshi.
2. For hearing of C.M.A 1161/2010

03.04.2018.

Mr. Wali Muhammad Jamari, Assistant A.G.

Mr. Mansoor Ali, Advocate for respondents Nos.3 and 4.

=====

Service is held good on respondent No.1, who despite repeated successful attempt, has chosen to stay away from the Court.

Learned A.G. submits that this revision has been filed against the concurrent findings given by the Courts below. The dispute between the parties commenced by respondent No.1 filing F.C.Suit No.13 of 2003 for Declaration and Permanent Injunction with the following prayers:-

- (a) It be declared that the plaintiff in possession of the pucca house and shops as exclusive owner in his own rights, title and interest over an area of 1032.78 square feet (114.75 square yards) on the portion of Revenue Survey No.377, Deh Sari since 1975-76 and defendants have no concern with it and the notice No.149 dated 11.01.2003 issued by the defendant No.1 is illegal, void, without jurisdiction, malafide and may be declared as of no legal effect;
- (b) The Permanent Injunction be issued against the defendants restraining them through themselves, their subordinates, servants and agents from

implementing the notice No.149 dated 11.01.2003 issued by the defendants and from interfering, dispossessing, ejecting or demolishing the house / shop constructed over an area of 1032.78 square feet (114.75 square yards) Deh Sari Taluka Qasimabad, Hyderabad.

The trial Court framed number of issues, of which the most important issue is that where trial Court on the admission of the plaintiff himself that he is in possession of the property owned by Hyderabad Municipal Corporation answered the issue regarding whether the plaintiff is encroacher or not in affirmative. An appeal was preferred against the said

-2-

judgment and decree where trial Court with detailed, speaking and well reasoned judgment upheld the judgment and decree of the Court below taking into account the fact that the appellant himself admitted that he does not own the land rather simply the land is in his possession since 1975/1976, as well as he failed to produce a single document to prove his title. All the parties having mutually agreed that the property viz. Revenue Survey No.377, Deh Sari, belongs to Municipal Committee Hyderabad, thus, on the sole ground of payment of utility bills etc. the Court held that the applicant cannot be declared owner.

In the given circumstances, this revision preferred wherein there is no apparent error floating on the surface of impugned judgment nor any illegality is found in these judgments, as well as where no forceful ground is raised to challenge the impugned judgments, is accordingly dismissed with no order as to costs.

JUDGE

Asif.L.Khan