

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C.P. No.D-7218 of 2016

Order with signature of Judge

Before: **Mohammad Ali Mazhar and Agha Faisal, JJ.**

- 1. For orders on office objection No.1*
- 2. For orders on Misc. No.34339 of 2016*
- 3. For orders on Misc. No.34340 of 2016*
- 4. For hearing of main case*

25.01.2019

None present for the petitioner.

MOHAMMAD ALI MAZHAR J.- Petitioner and his counsel are called absent without any intimation. Same was the position on the last date of hearing. It appears from the record that respondent No.1 filed Suit No.3 of 1997 against the petitioner for possession, permanent injunction, recovery of damages and mesne profits of Rs.118000.00 in this Court which was subsequently transferred due to pecuniary jurisdiction in the Civil Court. Vide judgment dated 30.11.2001 the learned IInd Senior Civil Judge, Karachi Central dismissed this suit and allowed the counter claim of the respondent for specific performance as prayed. The respondent No.1 filed appeal before the IInd Additional District Judge, Karachi Central and vide order dated 29.11.2004 the appeal was allowed with the observations that the learned trial Court has not passed the impugned judgment and decree in correct appreciation of facts, evidence and law, therefore, it cannot be sustained. Record further reflects that against this order Civil Revision

Application No.103 of 2005 was filed by the same petitioner and the order passed in revision on 22nd October, 2013 by learned Judge of this Court shows that at the date of hearing nobody was present for the applicant, therefore, the restoration application was dismissed for non-prosecution which seems to us that the revision application had already been dismissed and on 22.10.2013 only restoration application was fixed which was also dismissed due to the absence of the applicant. After availing the remedy of civil revision application and its dismissal, the petitioner has filed this constitution petition on 24.12.2016 and challenged the judgment of respondents No.2 and 3. No writ can be filed challenging the judgment and decree passed by respondents No.2 and 3 after availing appropriate remedy provided under the law. The petition is dismissed.

J U D G E

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