

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

R.A No.129 of 2017

Date	Order with signature of Judge
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1. For hearing of CMA No.10250/2017.
2. For hearing of main case.

17.04.2019

Mr. Aziz-ur-Rehman Akhund, advocate for the applicant.

In the instant case the concurrent findings against the applicant are precisely on the ground that the issue between the applicant and Mst. Basran was supposed to be adjudicated before the Revenue Authorities. Learned counsel for the applicant has contended that since the applicant was in possession of the property, therefore, the suit was maintainable in terms of **Section 53** of the Sindh Revenue Act, 1967. However, before decision on his case, even entry in his name has been struck off by the Revenue officer by order dated **23.12.2009** in an already pending dispute in appeal before the Executive District Officer, Revenue bearing Appeal No.37/009, therefore, irrespective of the fact that suit, as on the date of filing was maintainable or not, at least once the entry in the name of the applicant was struck off by a Judicial Officer of the Revenue authorities, that order should not have been assailed in civil suit but the same should have been assailed in the appeal provided under the Land Revenue Act. This situation cannot be retrieved nor it can be treated as technical fault on the part of the applicant. Both the Courts below have observed that the remedy of the applicant lies before the Revenue authority, therefore, this Revision Application has no merit in view of the order of Revenue authority already in the field since 2009. Therefore, the civil Courts have no jurisdiction. Learned

counsel for the applicant has also states before the Court that even today the applicant is not in possession which he claimed to have been taken away subsequently.

In view of the above facts, while dismissing this Revision Application I would only recommend that if any fresh application is filed before the Revenue Authorities, that may be considered sympathetically without prejudice to the other side.

With the above observations instant Revision Application is disposed of alongwith pending application(s)

JUDGE

Ayaz Gul