

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

R.A. No.178 of 2012

DATE

ORDER WITH SIGNATURE OF JUDGE

1. For hearing of C.M.A 812/12
2. For hearing of main case

13.01.2020

Mr. Sartar Iqbal Panhwar, Advocate for applicants.

Mr. Nouman Raja Khan, Advocate for respondents.

Mr. Allah Bachayo Soomro, A.A.G.

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1&2. The applicant was under litigation in respect of some properties for which initially he filed Third Class Suit No.21/2006 which was renumbered as 13/2009. Originally the plaint was rejected. However, counsel conceded that it was remanded whereafter opportunities were given to the applicant to record evidence. Counsel for the applicant submits that he has filed yet another suit in respect of the same properties though on different cause of action. Be that as it may, he claims to have filed a transfer application that the two suits be heard together. The issues were framed on 13.07.2009 whereas the transfer application was filed somewhere in 2011 as the date is not disclosed by the applicant's counsel. The transfer application was assigned number as 04/2011. The transfer application was dismissed on 25.05.2011. Although the issues were framed on 13.07.2009 yet sufficient time was given to the applicant to adduce evidence. Insofar as the ground of pendency of transfer application is concerned, that too is not available since the suit was dismissed under Order XVII Rule 3 CPC two months after dismissal of the transfer application. The only reason for not recording evidence was the pendency of the

transfer application which too was dismissed two months earlier. There is no other ground agitated except this issue of pendency of transfer application as disclosed in the appeal itself.

Learned counsel for the respondents has relied upon a judgment of Honourable Supreme Court in the case of *Sufi GHULAM MOHYUDDIN versus KHUSHI MUHAMMAD and 2 others* reported in 1997 S C M R 924, which ruled that sufficient time was given to the party to adduce evidence yet he failed. In this matter as well although the transfer application was pending and sufficient time was given yet after dismissal of the transfer application the applicant failed to adduce evidence.

No interference as such is required. The revision application as such is dismissed along with listed application.

JUDGE