

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD
C.P No.D-3119 of 2017**

Before:

Mr. Justice Muhammad Shafi Siddiqui
Mr. Justice Irshad Ali Shah.

For orders on office objection
For hearing of MA-1546/2019
For hearing of MA-355/2020
For hearing of MA-12596/2017
For hearing of main case.

Petitioner: Ali Bux son of Haji Pir Muhammad Rind,
Through M/s Khadim Hussain Soomro
and Pirbhu Lal U. Goklani, advocates

Private Respondents: None present.

Respondents No.2to8: Mr. Muhammad Ismail Bhutto, Addl. A.G

Date of hearing: 20-10-2020.

Date of decision: 28-10-2020.

J U D G M E N T

Irshad Ali Shah J:- The facts in brief necessary for disposal of instant constitutional petition are that the private respondent filed a suit for declaration, possession, mesne profit and injunction before learned Ist Senior Civil Judge, Nawabshah, which they sought to be amended by way of making an application u/o VI Rule-17 C.P.C. It was dismissed by learned Ist Senior Civil Judge, Nawabshah vide his order dated 23.01.2016 which they impugned by filing a Revision Application. It was

allowed by learned District Judge, Shaheed Benazirabad vide his order dated 13.09.2017 which is impugned by the petitioner before this Court by preferring the instant Constitutional Petition.

2. It is contended by learned counsel for the petitioners that the amendment which is permitted in plaint by learned Revisional Court would change the very complexion of the suit. By contending so, they sought for setting aside of impugned order.

3. Learned A.A.G by supporting the impugned judgment sought for dismissal of the instant constitutional petition by contending that the amendment which is permitted in plaint would resolve the controversy between the parties once for all.

4. None however has come forward to argue the instant constitutional petition on behalf of the private respondents.

5. We have considered the above arguments and perused the record.

6. The petitioners obviously contested the suit by filing the written statement. It was asserted therein by them that the registered sale deed[s] have been executed in their favour in respect of the suit property, situated in Deh 09 Dad, Taluka Daur, District Shaheed Benazirabad in year 1965, 1967 and

1970 in different Districts. No such sale deed however was produced by them. On coming to know of such fact the private respondents sought for cancellation of those sale deed[s] by seeking suitable amendments in their plaint, which could be sought for at any stage of the case in terms of mandate contained by order VI Rule-17 C.P.C. No doubt the amendment sought for was denied by learned trial Court but was permitted by learned Revisional Court, perhaps rightly. Such amendment would not change the complexion of the suit apparently and it is subject to rebuttal if any, and would obviously resolve the dispute between the parties once for all. No illegality or material irregularity is pointed out by learned counsel for the petitioner which may justify to make interference with impugned order by this Court in exercise of its constitutional jurisdiction. Consequently, the instant constitutional petition is dismissed with no order as to costs along with listed application[s].

JUDGE

JUDGE