

IN THE HIGH COURT OF SINDH AT KARACHI

Before: **Mohammad Junaid Ghaffar and Agha Faisal, JJ.**

CP D 2084 of 2020 : Muhammad Anwer Qureshi vs.
IVth ADJ Karachi Central & Others

For the Petitioner : Ms. Saima Muhammad Jamil, Advocate

Date/s of hearing : 27.10.2020.

Date of announcement : 27.10.2020

JUDGMENT

Agha Faisal, J. The petitioner has assailed an order dated 09.03.2020 rendered by the learned IVth ADJ Karachi Central in Civil Revision Application 12 of 2020 (“Impugned Order”), whereby his revision application was dismissed in respect of an earlier order of the learned IIIrd Senior Civil Judge Karachi Central dated 22.01.2020 (“O.I r.10 Order”) in Civil Suit 875 of 2014 (“Suit”) dismissing an Order I Rule 10 application filed by the petitioner, defendant therein, seeking to implead an authority at the penultimate stage of the said suit.

2. Briefly stated, the Suit for possession of immovable property and recovery of *mesne* profits is pending between the petitioner, the defendant therein, and the respondent no. 3. Per the O.I. R10 Order, post conclusion of the evidence, almost six years after institution of the Suit, the petitioner made an application to implead an authority. The learned Judge recorded that the relevant authority had already placed the pertinent record before the Court, hence, to implead it as a party would serve no fruitful purpose, hence, the application was dismissed. The said order was assailed in revision and the learned Court dismissed the application, post an exhaustive elaborate discussion, and maintained the order under challenge. This petition serves as the third successive attempt of the petitioner in such regard.

3. Learned counsel for the petitioner was unable to point out any infirmity in respect of the Impugned Order, rendered within the ambit of Section 115 of the Civil Procedure 1908. The counsel also failed to identify any frailty in the O.I r.10 Order. It is borne from the record that

the Suit is a matter between two private parties and the record / report of the authority, sought to be impleaded, has already been placed before the learned trial court. No cavil was demonstrably advanced by the petitioner to such record either before the trial court or the revisionary court and none has been articulated before us today.

4. It is trite law¹ that exercise of constitutional jurisdiction in such matters was only warranted in rare circumstances; if the findings recorded in the orders under scrutiny were without jurisdiction, arbitrary and / or were predicated upon misreading / non-reading of evidence. In this matter the findings placed before us suffer from no such infirmity and the petitioner has failed to plead any rare circumstance, which would attract the exercise of writ jurisdiction by this Court.

5. In view of the reasoning and rationale herein contained, it is our considered view that the present petition is devoid of merit, hence, the same, along with pending application/s, was dismissed vide our short order announced in open court earlier today. These are the reasons for our short order.

JUDGE

JUDGE

¹ *Asif Rafique vs. Mst. Quratullain & Others*, reported as 2016 MLD 425.