

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
IInd Appeal No.97 of 2019

| | |
|------|-------------------------------|
| Date | Order with signature of Judge |
|------|-------------------------------|

For orders as to non-prosecution

22.01.2020

Mr. Rajendar Kumar Chhabria, advocate for the Appellants.

-.-.-.-

The appellant claims that he has filed an application under **Order 1 Rule 10 CPC** in connected IInd Appeal **No.90/2016** to be impleaded as party, which was dismissed by this Court with the observation that appellant has independent right to file separate proceeding to prove his case and therefore, he has filed separate IInd Appeal and as well as he has also filed suit. Connected IInd Appeal is arising out of suit for specific performance which was filed way back in **2008** and after **11** years he wants to become party and he has impugned the order passed both in Suit **No.884/2008** dated **11.10.2013** and orders in Civil Appeal **No.215/2013** dated **12.8.2016**. Prima facie, only to support the appellant in IInd Appeal No.90/2016 who has lost the cases at two forums during the last **12** years. He has also challenged the judgment through an application under **Section 12(2) CPC** which is either pending or may be disposed of but he has not filed result of his first attack on the impugned judgment of the trial Court through his application under Section 12(2) CPC. He has also filed separate suit bearing **No.697/2018** before filing instant second appeal which is also pending. Despite pendency of two remedies initiated by him

appellant has filed an application under **Order 1 Rule 10 CPC** in the connected IInd Appeal No.90/2016, which was dismissed by order dated **10.5.2019**. Today again he has filed IInd Appeal challenging both the orders of the trial Court and appellate Court irrespective of the fact his application under **Section 12(2) CPC** is already pending adjudication before the Court which he has filed in the same case.

In view of above facts, this IInd appeal having no merits is dismissed.

JUDGE

SM