

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD
Civil Revision Appln.No.S-52 of 2021

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on CMA-509/2021
2. For orders on CMA-510/2021
3. For orders on CMA-511/2021
4. For hearing of main case.

18.03.2021.

Mr. Nouman Raja Khan, advocate for applicants.

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1. Urgency granted.

2to4. The facts in brief necessary for disposal of instant Civil Revision application are that a declaratory suit was filed before learned Ist Senior Civil Judge, Tando Allahyar by the respondent No.1, the plaint whereof, on an application u/o VII Rule-11 C.P.C filed by the applicants was rejected by learned Ist Senior Civil Judge, Tando Allahyar vide his order dated 24.03.2020. On appeal preferred by the respondent No.1, such order of rejection of the plaint was set-aside by learned District Judge, Tando Allahyar vide her order dated 23.02.2021, which is impugned by the applicants before this Court by way of instant Civil Revision Application.

It is contended by learned counsel for the applicants that the dispute between the parties has already been resolved by the Courts having jurisdiction; the suit filed by the respondent No.1 was hit by provisions of resjudicata; therefore, its plaint was rightly rejected by learned trial Court and its rejection has wrongly been reversed by

learned appellate Court by way of impugned order, which is liable to be set-aside after notices to other side.

I have considered the above arguments and perused the record.

It is settled by now that the complaints could only be rejected on the basis of averments made therein and not on the basis of averment made in defence. If, the applicants are having a feeling that the dispute between them and respondent No.1 has already been resolved by the Courts having jurisdiction then they may ask for framing of issue on such point. The rejection of the complaint in summary manner was not justified. No harm would be caused to either of the parties, if, the dispute between the parties is permitted to be resolved on merits, after recording of evidence, such exercise even otherwise, is guaranteed by Article-10-A of the constitution of the Islamic Republic of Pakistan, 1973. No illegality is apparent, which may justify this Court to make interference with the impugned order.

In view of above, the instant Civil Revision Application is dismissed in limine together with the listed application.

JUDGE