

I have heard the learned counsel and perused materials available on record.

On the strength of a lease executed by Sindh Katchi Abadis Authority a suit was filed by respondent No.1 for declaration, possession and permanent injunction. In the first round of litigation there was no rebuttal to the evidence/examination in chief whereas in the second round, as to the additional/further examination in chief, the appellant's counsel himself suggested that the defendant/appellant was permitted by the plaintiff/respondent to reside in the suit property. This being fatal question as far as defence of the appellant is concerned.

Be that as it may, the case was remanded by this court to ascertain as to when the plaintiff was dispossessed by defendant No.1. Though the findings of all issues are available in the judgment of the trial court yet I am of the view that this is primarily a suit for possession on the strength of a lease executed by Sindh Katchi Abadis Authority. Article 142 of the Limitation Act provides limitation for possession of immovable property i.e., 12 years from the date of dispossession.

In the plaint the respondent has stated in para 3 that about two years ago perhaps in the year 2009 the appellant/defendant illegally, unlawfully occupied the suit property. Para 9 of cause of action should be read alongwith entire pleadings for the construction of cause of action, hence, the date of dispossession is disclosed in the pleadings. There is no rebuttal to these statements either in the examination in chief or cross examination. The suit of the appellant for the cancellation of the lease [Katchi Abadis Lease] was dismissed for non-prosecution and perhaps an application for the cancellation of such lease is now filed by the appellant with Sindh Katchi Abadis Authority. The appellant is at liberty to invoke the jurisdiction of any forum including Sindh Katchi Abadis

Authority, however, on the strength of the lease the suit was liable to be decreed and such decree was rightly maintained by the appellate court.

These being facts of the case, the concurrent findings of two courts below cannot be disturbed or interfered by this court in IInd Appeal u/s 100 of Civil Procedure Code. Consequently, instant IInd appeal merits no consideration. Accordingly the same is dismissed a/w pending applications.

J U D G E