

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

R.A. No.226 of 2016
R.A. No.227 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE
------	-------------------------------

16.05.2022

Mr. Rao Faisal Ali, advocate for respondent(s).

MUHAMMAD SHAFI SIDDIQUI, J. These connected revision applications are pending since 2016. Applicant in the capacity as being occupant filed a suit bearing Suit No.22 of 2009 for a declaration that the plaintiff (applicant here) being in occupation be given first right of refusal in respect of the land in question as promised by the respondent Bashir Ahmed, defendant No.1 in the suit, in case he intend to sale. Similarly, a suit bearing Suit No.89 of 2010 was also pending before the same court as filed by the respondent No.1 Bashir Ahmed for possession against applicant / plaintiff of Suit No.22/2009. Following issues were framed in Suit No.89/2010 :

ISSUES

1. *Whether the suit is not maintainable under the law?*
 2. *Whether the plaintiff has no cause of action to file the suit against the defendant?*
 3. *Whether the suit is barred under Specific Relief Act?*
 4. *Whether the plaintiff purchased the disputed land from one Nasreen through registered sale deed No.138 of 2003 dated 25.02.2004 and M.F Roll No.138/2003 dated 17.03.2004 in the sum of Rs.3,00,000/- and the plaintiff handed over the possession of suit land to seller and plaintiff was in physical possession being bonafide purchaser?*
 5. *Whether the defendants No.1 to 10 have no right, title and interest in the suit land and are enjoying the possession without any legal character since 03.03.2009 after dispossessing the plaintiff forcibly of 03 rooms constructed by the plaintiff on agricultural land consisting of S.No.37 (03-13 acres)?*
 6. *Whether plaintiff is entitled for the relief claimed?*
 7. *What should the decree be?"*
2. Respondent No.1 on the strength of a registered sale deed, entry in the revenue record and evidence of the official witnesses i.e. Mukhtiarkar

Jhudo and Sub-Registrar Digri got his suit decreed whereas the suit of the applicant bearing Suit No.22 of 2009 was dismissed. Aggrieved of it, the applicant filed statutory appeals i.e. Civil Appeals No.14 and 15 of 2014, which affirmed the findings of the trial court. Consequently, against the concurrent findings of two courts below these two revision applications have been filed.

3. As far as suit of the applicant is concerned, they absolutely have no right or justification to continue to occupy the land. In fact, they have only sought a declaration that they may be given first right of refusal. Prayer is reproduced as under :

- a. *Declare that the plaintiff and other occupants have first right to be given offer in respect of the suit land as was the promise of the defendant No.1.*
- b. *Declaration that act of defendant No.1 attempting to forcibly eject the plaintiff and other occupants, from the suit land without due course of law is illegal, void, and malafide hence of no legal effect.*
- c. *Grant permanent injunction against the defendant No.1 restraining and prohibiting him from creating any third party interest in respect of suit land or making any interference in lawful possession of the plaintiff and his family fellows by himself through his men, agent, servants or any other person.*
- d. *Cost of the suit be borne by the defendant.*
- e. *Any other relief as may deem fit and proper under the circumstances."*

4. Now they are not even in possession as the executing court has already executed the decree as claimed by the respondents which is a due process of law. Insofar as these revision applications against the judgments and decrees in Suit No.22/2009 and Suit No.89/2010 are concerned, there is no evidence at all to interfere in the concurrent findings of courts below as to the entitlement of respondent No.1 based on registered instrument and entries which were not challenged. This being a situation, no interference as such is required, the revision applications are dismissed.

JUDGE

