

**IN THE HIGH COURT OF SINDH,
AT KARACHI**

C. P. No. D-7491 of 2019

Present:

Ahmed Ali M. Shaikh, CJ
and Yousuf Ali Sayeed, J

Petitioner : Moinuddin through Syed Ali
Ahmed Tariq, Advocate.

Respondents : Nemo.

Date of hearing : 12.05.2022.

ORDER

YOUSUF ALI SAYEED, J. - The Petitioner has invoked the jurisdiction of this Court under Article 199 of the Constitution, impugning the Order made on 22.07.2019 by the learned IIIrd Additional District & Sessions Judge, Karachi, Central, dismissing Civil Revision Application No.55/2018 filed against the earlier Order of the learned IVth Senior Civil Judge, Karachi, Central dated 17.09.2018, whereby the Petitioner's application under Section 12 (2) CPC assailing the order dated 27.05.2015 made in Execution No.14/2009 arising from Civil Suit No.419/1992 was dismissed.

2. The backdrop to the matter is that a dispute had arisen between the Petitioner and his wife, namely Fehmeeda Begum in relation to an immovable property bearing No.1-E-11/2, Nazimabad, Karachi, with it being contended by the Petitioner that the same had been purchased by him in her name as a benami transaction. In that regard, the Petitioner had apparently filed Suit No.261/1992 seeking a Declaration and Injunction in

respect of the Property, whereas Fehmeeda Begum had in turn filed Suit No.419/1992 against the Petitioner, asserting her independent ownership.

3. As it transpires, both the Suits came to be heard by the learned Senior Civil Judge, Karachi, Central, with the Suit of the Petitioner being dismissed and that of Fehmeeda Begum being decreed on 31.08.2009. Thereafter, the Petitioner filed Civil Appeal No.108/2009 before the learned District & Sessions Judge, Karachi, Central, which was later on transferred to the learned 1st Additional District & Sessions Judge, Karachi, Central, and came to be dismissed on 13.01.2011. The Petitioner then filed Civil Revision No.29/2011 before this Court, which was also dismissed on 06.03.2015. Thereafter, the Petitioner filed Civil Petition for Leave to Appeal No.272-K of 2015 before the Honourable Supreme Court, but leave was refused vide order dated 22.07.2015.

4. The case nonetheless sought to be advanced by the Petitioner in the Execution was that Fehmeeda Begum had expired on 21.11.2010, but such fact was suppressed by her legal heirs. It is said that such a grievance had been raised by the Petitioner in Human Right Case No.17053-S of 2015 before the Honourable Supreme Court of Pakistan, which was disposed of vide order dated 01.09.2015 with the directions that the Petitioner should avail his remedy in accordance with law. Thereafter, the Petitioner preferred the application under Section 12 (2) CPC, which came to be dismissed with ensuing the Revision Application also meeting the same fate.

5. Proceeding with his submissions, learned counsel for the Petitioner conceded that course of litigation in relation to the Property had run against the Petitioner all the way up to the Apex Court, but nonetheless sought to argue that the Executing Court had erred in not recalling the order dated 27.05.2015 for grant of a writ of possession. Be that as it may, on query posed, it was conceded that such order had also since been implemented, with possession having been handed over to the private Respondents.

6. Under the given circumstances, especially where the claim of the Petitioner has been adjudicated and dismissed on merit without exception and possession of the Property has consequently passed, no cause for interference stands made out. Therefore, the Petition is dismissed *in limine*, along with the miscellaneous applications.

JUDGE

CHIEF JUSTICE

Karachi.
Dated: