

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

C.P. No.D-493 of 2020

<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGE (S)</b>
	1. For orders on office objections.
	2. For orders on M.A. No.1134/2021.
	3. For hearing of M.A. No.2565/2020.
	4. For hearing of main case.

**26.05.2022**

Mr. Abdul Ghafoor Hakro, Advocate for the petitioners.  
Mr. Muhammad Arshad S. Pathan, Advocate for the respondents No.1 to 8.  
Mr. Irfan Ahmed Qureshi, Advocate for the respondents No.14 & 15.  
Mr. Rafique Ahmed Dahri, Assistant Advocate General, Sindh.

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Mr. Tarique Mehmood, Advocate has filed Vakalatnama on behalf of respondents No.16 and 17, is taken on record.

This petition is against the conflicting findings of two Courts below. In a Suit for declaration and injunction, where some family settlement out of the property left by the ancestors took place as claimed, an application under Order 7 Rule 11 C.P.C was preferred which though was dismissed by the Trial Court but the Revisional Court reversed the findings and rejected the plaint under Order VII Rule 11 C.P.C.

We have perused the Orders of Trial Court as well as of the Revisional Court and found nothing within frame of Order VII Rule 11 C.P.C which could reject the plaint. The questions raised and the prayers made in the plaint require adjudication through evidence and the plaint cannot be summarily rejected under Order VII Rule 11 C.P.C, in terms of the pleadings of the plaint.

Mr. Muhammad Arshad S. Pathan, learned counsel for the respondents has reluctantly agreed, provided a reasonable time be given to the Trial Court for the disposal of the Suit within a timeframe of six months, after summer vacation; he has also requested for framing of additional, preliminary and legal issues, since the issues have already been framed by the Trial Court as agreed by counsel, when it was rejected by the revisional Court, under Order VII Rule 11 C.P.C.

We are of the view that since no ground within frame of Order VII Rule 11 C.P.C has been made, this constitutional petition is allowed, the Order of the Revisional Court in Revision Application No.33 of 2017 is set-aside and the Suit is remanded to the Trial Court for its disposal in accordance with law on merits. The respondents would be at liberty to move an appropriate application for the re-framing of additional issues, be it on facts or legal and the learned Judge shall hear the application and dispose it off in accordance with law. It is expected that the entire Suit shall be dispose of in six months' time after summer vacation. Petition is dispose off accordingly.

JUDGE

JUDGE

*Muhammad Danish*