

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

R.A No. 61 of 2007

Nabi Bux and another.

Versus

Muhammad Ahmed Khan

Date of hearing and Order : 15.08.2022

None present for applicants
Mr. Rafiq Ahmed Dahri, Asstt: A.G.

ORDER

ADNAN-UL-KARIM MEMON, J:- Through instant revision application, the applicants have called in question the judgment dated 08.02.2007 passed by learned Addl. District Judge, Shahdadpur in Civil Appeal No. 02 of 2006, whereby the learned Judge while dismissing the appeal maintained the order dated 12.12.2005 passed by trial Court in T.C Suit No. 24 of 1999. The applicants have now attempted to re-open the case through this revision application under Section 115 CPC inter-alia on the ground that the suit shop is situated on Bhada land in front of Survey No. 472; thus both the courts below failed to appreciate the aforesaid factum; that the findings of the learned courts below are arbitrary and perverse; that the averments of the applicants made in the pleadings were not considered in the impugned Judgments, therefore both the judgments are a nullity in the eyes of law; that both the learned courts below have failed to appreciate the material aspects of the matter; they prayed for setting aside both the Judgments rendered by the learned Courts below.

2. None present for the applicants and no intimation is received. The record reflects that since the year 2018 neither the applicants nor counsel turned up which shows that perhaps they have lost interest in these proceedings, therefore, I have gone through the record as available before me and find that there are concurrent findings available against the applicant which does not require further interference by this Court. An excerpt of the appellate judgment is reproduced as under:-

“In view of my above discussion I find that the Judgment and Decree dated 12.12.2005 passed by the learned trial court is in accordance with the law and as per material available on record, therefore, I do not find any illegality or irregularity committed by the learned trial court while passing the Judgment. During pendency of the appeal the learned counsel for the appellant has moved application for additional evidence and he has filed some documents along with application. The document No.1 sketch is not authentic document because there is no counter signature of Mukhtiarkar on the sketch and so

also his stamp, the other document filed along with application are also not authentic because as per revenue record the Budda Land allotted to the appellant on 6.7.2002 is not available on the site and during pendency of the suit, therefore, I also found no merits in the application.

In view of my above discussion the appeal merits no consideration and is hereby dismissed accordingly, with no order as to costs.

3. Primarily, cases can be revised by this Court as it possesses revisional jurisdiction as defined under Section 115 of the Code of Civil Procedure. This Court has the right to revise cases decided by subordinate courts to ensure the delivery of justice and maintenance of fairness. In the present case, the applicants throughout the proceedings have lost their case up to the level of appellate stage and at the revisional stage, they have agitated the grounds already exhausted by them and properly adjudicated by the competent forum, thus in my view, no perversity and illegalities have been pointed out in the findings of the competent forums, therefore no ground existed for re-evaluation of evidence, and thus, I maintain the Judgment and Decree passed by the courts below.

4. Before parting with this order, it is observed that undoubtedly, Revision is a matter between higher and subordinate Courts, and the right to move an application in this respect by the Applicant is merely a privilege. The provisions of Section 115, C.P.C., have been divided into two parts; the first part enumerates the conditions, under which, the Court can interfere and the second part specifies the type of orders which are susceptible to Revision. In numerous judgments, the Honorable Supreme Court was pleased to hold that the jurisdiction under Section 115 C.P.C. is discretionary.

5. In the light of the above facts and circumstances of the case, I am of the view that this Court in its Revisional Jurisdiction cannot interfere in the concurrent findings recorded by the two competent Courts below and I also do not see any illegality, infirmity or material irregularity in their Judgments warranting interference of this Court. Hence, this Revision Application is found to be meritless and is accordingly dismissed along with the pending application(s) with no order as to costs.

JUDGE

Karar_Hussain /PS