

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

R.A No. 39 of 2014

Applicant : Muhammad Sharif Jatt through
Mr. Mushtaque Ahmed Arain,
Advocate who is called absent today

Respondent : Riazuddin Qureshi, Advocate for respondent 1(a)
Mr. Rafiq Ahmed Dahri, Asstt: A.G.

Date of hearing
and Order : 15.08.2022

ORDER

ADNAN-UL-KARIM MEMON, J:- Through instant revision application, the applicant has called in question the judgment dated 28.11.2013 and decree dated 5.12.2013 passed by learned 2nd Addl. District Judge, Shaheed Benazirabad in Civil Appeal No. 39 of 2011, whereby the learned Judge while dismissing the appeal maintained the Judgment dated 24.01.2011 and the Decree dated 24.1.2011 passed by trial Court in F.C Suit No. 294 of 2005. The applicant has now attempted to re-open the case through this revision application under Section 115 CPC inter-alia on the ground that the execution of the sale agreement dated 1.6.1986 was not denied and admitted by respondent No.1 (a); that the decision of both the courts is illegal and without lawful justification; that part payment of Rs.5000/-was acknowledged by the respondents. He prayed for allowing the instant revision application.

2. None is present for applicant and no intimation is received. Record reflects that after filing of this Civil Revision Application in the year 2014 neither the applicant nor his counsel have cared to attend or even came forward to fix this matter before the Court, 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 finding 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 above discussion the appellant has failed to prove that respondent No.01 executed sale agreement in favour of appellant. The appellant has also failed to prove that the sale consideration amount was paid to respondent No.01 in installments; hence the appellant is not entitled for the relief claimed.

In view what has been stated in the preceding paras the issue have been decided properly the learned trial court need no interference in the result, I find no merits in the appeal and which is hereby dismissed 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 applicant throughout the proceedings has lost his case up to the level of appellate stage and at the revisional stage, on the purported pleas taken by him, now he has agitated the grounds already exhausted by him and properly adjudicated by the competent forum, thus in my view, no perversity and illegalities have been pointed out in the findings of the before the courts below, therefore no ground existed for re-evaluation of evidence, and thus, I maintain the Judgments and Decrees 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 pending application(s) with no order as to costs.

JUDGE

Karar_Hussain /PS