

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

R.A No. 199 of 2016

Applicant : Fateh Muhammad through
Mr. Sher Muhammad Leghari,
Advocate who is called absent today

Respondent : Muhammad Ali Shah through Mr. Zahid
Mallah, Advocate

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 16.04.2016 and decree dated 22.04.2016 passed by learned District Judge Hyderabad in Civil Appeal No. 12 of 2015, whereby the learned Judge while dismissing the appeal maintained the Judgment dated 17.01.2015 and Decree dated 23.1.2015 passed by trial Court in F.C Suit No. 31 of 2010. 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 applicant filed suit within three months from the refusal of respondents to perform their part of the contract and the limitation for filling of suit for Specific Performance of the Contract is three years from the date of refusal. He prayed for allowing the instant revision application.

2. None present for the applicant and no intimation is received. The record reflects that since 2018 the applicant and his counsel have chosen to remain absent and have not come forward to even 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. 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 the appellate stage, and at the revisional stage, 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 competent forums, therefore no ground existed for re-evaluation of evidence, and thus, I maintain the Judgment and Decree passed by the courts below.

3. 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.

4. 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, the above 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