

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
HCA NO. 133 / 2014

Date	Order with signature of Judge
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Disposed of case.

- 1) For orders on CMA No. 1690/2016.
- 2) For orders on Review Application No. 34/2015.

Dated 25.4.2016

Mr. Khawaja Shamsul Islam Advocate for respondent No.1.

Through this application under Order 47 Rule 1 CPC the respondent No.1 seeks review of judgment dated 29.9.2015, whereby, the order dated 25.3.2015 passed in Suit No. 306 of 2012 rejecting the plaint was set aside.

Learned Counsel for respondent No.1 has contended that the judgment dated 29.9.2015 suffers from gross illegality flowing on the face of the record and so also is based on Non-appreciation of documents and facts, hence, there are sufficient reasons to review the judgment in question and maintain the order dated 25.3.2015 passed by the learned Single Judge in the Suit. He has referred to paragraph 6 of the judgment in review and has submitted that this Court has erred in observing that the cause of action for filing the Suit only accrued when construction started on Plot No. B-33/1, whereas, it was very much in the knowledge of the appellant that such plot did exist since 2004, when respondent No.6 gave a Public Notice in daily "DAWN" Karachi. He has further submitted that such public notice was filed along with plaint by the appellant while filing the Suit and therefore was aware of such fact. Per learned Counsel this Court has erred while passing the judgment under review by not considering these facts and has arrived at an erroneous decision on the basis of facts available on record and therefore, the judgment be reviewed as prayed.

We have heard the learned Counsel for the respondent No.1 and have perused the contents of the application under

consideration. It is needless to observe that in terms of Order 47 Rule 1 CPC, a person considering himself aggrieved of any decision or order may seek review of such decision or order on account of some mistake or error apparent on the face of the record or even for any other sufficient reasons; but at the same time we may observe that the exercise of such option is not an alternate of an appeal. The judgment under review was passed by us whereby, we had considered the question that whether the Suit filed by the appellant was hit by the provisions of Order 2 Rule 2 CPC, or was time barred in terms of Article 91 of Limitation Act or not; and we have consciously answered both these issues in favour of the appellant by setting aside the order of rejection of plaint on these grounds passed by the learned Single Judge on 25.3.2015. We had examined the entire material placed before us as well as the pleadings and documents in other connected Suits and have come to a conscious and well-reasoned decision that neither the Suit filed by the appellant was hit by the provision of Order 2 Rule 2 CPC; and nor was it time barred under Article 91 of the Limitation Act. All the objections which have now been raised on behalf of the respondent No.1 through instant application have been considered by us and answered in detail in the judgment under review, and in our opinion we had arrived at such conclusion after considering all the aspects and issues, including the one which are now being raised on behalf of respondent No.1 through instant application. Therefore, we do not see any reason to review the same.

In view of hereinabove discussion Review application 34 of 2015 listed at Serial No.2 seeking review of judgment dated 29.9.2015 is hereby dismissed in limine.

J U D G E

CHIEF JUSTICE

ARSHAD/