

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

R.A. No. 167 of 2011.

<b>DATE</b>	<b>ORDERS WITH SIGNATURE OF JUDGE</b>
31.08.2017.	

FOR KATCHA PESHI.  
FOR HEARING OF CMA 604/2011.

Mr. Arbab Ali Hakro, Advocate for the applicant.

Mr. Ghulam Shabbir Zardar, A.A.G.  
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Applicant filed a suit for declaration, adjudication, cancellation and injunction. After service the written statement was filed and one of the witnesses recorded his evidence. An application under Order VII Rule 11 C.P.C. which was earlier filed was then taken up and after detailed discussion as to the authorization of General Manager/Attorney Raees Ahmed Khan, the trial court came to the conclusion that in pursuance of an issue framed as to the maintainability of the suit it appeared to the trial court that the suit was barred under section 42 and 56 of the Specific Relief Act. The Board Resolution was not filed along with the plaint and the contents of the plaint are also absolutely silent as to the passing of such Resolution. Thus authorization of the person through whom the suit was filed and the verification column signed, is a question to be decided. The solitary ground that was raised by the applicant's counsel was that there was no scope of considering the case of the applicant within the frame of Order VII Rule 11. At the most, if the suit was not competent as in the wisdom of the trial court it was not filed by a competent person, an issue could have been framed as to the maintainability of the suit and it could have been dismissed. However, a plaint under Order VII Rule 11 in view of the above contention cannot be rejected. Learned counsel for the respondent when asked to reply the above contention, he initially was of

the view that in case the suit is not maintainable in terms of Section 42 & 56 of the Specific Relief Act or in case the suit is not maintainable as it has not been filed by a competent person, the plaint could be rejected however, he is unable to point out any provision for the rejection of the plaint in view of suit being not maintainable. He, however, concedes to the extent that in case an appropriate issue was framed and the case is remanded to the trial court for decision afresh as to whether it attract the provision of Order VII Rule 11 or it attract any other provision for the dismissal of the suit in terms of Section 42 & 56 of the Specific Relief Act, that may be passed by the trial court in accordance with law. Accordingly, the two orders whereby the plaint was rejected are set-aside. The case is remanded for deciding the question afresh as to whether a plaint is liable to be rejected and/or suit is liable to be dismissed as being not maintainable as instituted by a person who was never authorized at the time of filing of the suit as no Resolution was appended along with the plaint and/or any para revealing the fact of such authorization. The trial court may finalize this issue of the maintainability within eight (08) weeks from today with compliance report to the Additional Registrar of this Court.

The revision application in the above terms stands disposed of.

Sd- Muhammed Shafi Siddiqui  
Judge.