

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**  
**R.A. No. 22 of 2013**

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Date	Order with signature of Judge
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1. For hearing of CMA No. 896 of 2013.
2. For hearing of main case.

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**25<sup>th</sup> May 2021.**

Mr. Muhammad Ali Jan, advocate for applicant.

Chaudhry Abu Bakar Khalil, advocate for respondent No.1 alongwith Ms. Shagufta Perveen Khan, advocate.

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Heard and perused record.

Admittedly, applicant was debarred thereafter, he preferred application under Order IX Rule 13 CPC, which was dismissed on 06.05.2008, no appeal whereof was preferred. At this juncture, it would be conducive to refer relevant portion of the impugned order, which is reproduced as under:-

“It is settled principle of law that while moving an application Under Order IX rule 13 CPC, the party seeking recalling/setting aside of the order has to assign sufficient cause showing that the circumstances were beyond his control and the direction could not be complied with in time, but herein this case there appears no sufficient cause to recall/set aside the order in question. Record shows that Mr. Muhammad Ali Jan filed his vakalatnama on 05.05.2007 on behalf of Mr. Rizwan Khan who has claimed himself to be the honorary secretary of the society and even in the present application the said Muhammad Ali Jan has filed this application for Kafeel Jafari claiming to be the honorary secretary. There is nothing on record to suggest that as to why the said Rizwan Khan put his appearance through vakalatnama before the court as honorary secretary and failed to file written statement inspite of sufficient opportunities but subsequently this application has been filed for recalling and setting aside order on the ground of taken away of the file by said Rizwan Khan. The service against the defendant No.2 has nowhere been denied either by the Rizwan Khan or by the Kafeel Jafari as honorary secretary, therefore, the stand taken by both these honorary secretaries do not satisfy me to recall/set aside the order as pointed out. There appears nothing on record that said Kafeel Jafari has ever taken any action against the Rizwan Khan regarding taken away of the file of the present suit from

their office. There appears no vakalatnama on behalf of the present Kafeel Jafari but the said advocate Muhammad Ali Jan has represented Rizwan Khan without assigning of his vakalatnama for Kafeel Jafari is clearly showing that both the secretaries were having knowledge of the suit and after due service failed to file the written statement. The reason agitated in this application is not sufficient to satisfy the requirement of Order IX rule 13 CPC. Therefore, finding no weight in this application the same stands dismissed with no order as to costs."

Besides, applicant (Society) contends that after decree two properties were mutated in the name of the respondent, who was in possession. Applicant, after dismissal of his application under Order IX rule 13 CPC, moved an application under Section 151 CPC for keeping the resolution on record, which is irrelevant as he was debarred and his application was dismissed as well as he failed to prefer appeal. Accordingly, impugned order is in accordance with law, instant Revision Application is dismissed.

Sajid

**J U D G E**