

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C. P. No. D-2961 of 2022

Date	Order with signature of Judge
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FRESH CASE.

1. For orders on CMA No.30332/2022.
2. For orders on CMA No.14386/2022.
3. For orders on CMA No.14387/2022.
4. For hearing of main case.

22.11.2022.

Petitioner No.3 is present in person.

YOUSUF ALI SAYEED, J. - The Petitioners have invoked the jurisdiction of this Court under Article 199 of the Constitution, impugning the Order dated 01.02.2022 made by the learned Additional District Judge-VI/Model Civil Appellate Court-Ext., Karachi Central, dismissing Civil Revision Application No. 13/2020 filed by them against the earlier dismissal of their Application under Section 114 CPC read with Section 151 CPC, seeking review of the Order dated 24.12.2016 made by the learned IInd Senior Civil Judge, Karachi, Central in Execution Application No.09/2014 emanating from Civil Suit No.459/2011.

As it transpires that the underlying order dated 24.12.2016 had been made on an application filed by one of the Petitioners on his own behalf as well as on behalf of the other Petitioners in his capacity as their attorney, seeking cancellation of the auction proceedings held on 26.11.2016. That plea was dismissed and the sale of the property was confirmed, with it being observed that an earlier application filed for adjourning the auction sine-die had already been dismissed. The Petitioners did not challenge that Order before a higher forum; instead filed an Application under Section 114 CPC seeking review, which was then also dismissed on 12.07.2019, against which the Revision Application has then been filed. As such the scope of Revision and this Petition stand circumscribed accordingly.

A perusal of the decree reflects that the Petitioners in their capacity of Plaintiffs had themselves sought that the property be put to auction, with the relevant excerpt from the Order dated 12.07.2019 made on the Application under S.114 CPC reading as follows:

“I have heard the attorney of decree holders / decree holder No.3 in person and learned advocate for the defendants and perused the record, it appears that the plaintiffs filed suit for Declaration, Cancellation, Possession, partition and permanent Injunction which was decreed to the extent of prayer clause “C” vide judgment and decree dated 29.01.2014 and 10.02.2014 respectively. The execution was filed by the decree holder which was allowed vide order dated 12.03.2015. From the further perusal of record it appears that the suit property was firstly auctioned in open auction, and first purchaser namely Shakeel Ahmed had deposited amount of Rs.43,25,000/- of sale/auction of suit property with the Nazir of Court, but the decree holders/attorney filed objections on the auction proceedings, and due to objections of decree holders/attorney, the first purchaser namely Shakeel Ahmed filed an application in writing, whereby he withdrawn from the auction proceedings of suit property due to objections of decree holders/attorney. From further perusal of record it appears that the detailed order was passed by the then presiding officer of Ist Senior Civil Court Karachi Central vide dated 24.12.2016 by discussing the conduct of decree holders/attorney in detail and conformed the re-auction / sale proceedings of the suit property and the sale of suit property also become absolute vide such order. The decree holders/attorney has filed the instant application under section 114 CPC to review the order dated 24.12.2016 on the ground that the suit property has been sold out at the lowest price as compared to determined valuation as per Nazir report. It is matter of record that the decree holders/attorney has already raised grounds at the time of filing objections upon the auction report therefore, when all the grounds raised by the decree holders in support of review application, have already been discussed in the detailed order dated 24.12.2016, the decree holders cannot be allowed to re-agitate the same grounds. Admittedly, no mistake or error is apparent from the face of the order sought to be reviewed. Hence, application in hand merits no consideration is hereby dismissed with no order as to costs.”

Suffice it to say that the Petitioners had not challenged the Order dated 24.12.2016 before any higher forum and had merely resorted to seeking review thereof, with the *fora* below being satisfied that no error was identified on the face of the record vide the Review Application. Having considered the impugned Orders we see no perversity or illegality in that assessment, hence find the Petition to be devoid of force and dismiss the same accordingly along with all pending miscellaneous applications.

JUDGE

CHIEF JUSTICE

MUBASHIR