

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C. P. No. D-2586 of 2023

Date	Order with signature of Judge
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FRESH CASE.

1. For orders on Misc. No.12430/2023.
2. For orders on Misc. No.12431/2023.
3. For hearing of main case.

26.05.2023.

Mr. Sami Ehsan, Advocate for the Petitioners.

YOUSUF ALI SAYEED, J. - The Petitioners have invoked the jurisdiction of this Court under Article 199 of the Constitution, impugning the Order dated 17.02.2023 made by the learned Additional District & Sessions Judge-XII/Model Civil Appellate Court, Karachi, South, dismissing Civil Revision Application No.53/2022 filed by the Petitioners against the Order passed by the learned XIth Senior Civil Judge, Karachi, South, on 15.01.2022 in Civil Suit No.663/2018, whereby their Application under Order VI Rule 17 CPC was dismissed.

Through the underlying Application, the Petitioners sought to change the name of the Defendant No.1 from Sajid Ali to Sajjad Ali and the valuation of the Suit to Rs.40.54 Million, beyond the pecuniary jurisdiction of the Court. That Application was supported by the Affidavits of the Petitioners Nos.1(1) and 2 (2), wherein as regards the subject of valuation, it was merely stated that:-

“In the paragraph No.20, of the memo of plaint the Suit properties exceed Rs.15 Million as Rs.54,00,000/- for Karachi Property and Rs.40 Million therefore the suit is valued as Rs.40.54 million which is more than the pecuniary jurisdiction of this Hon’ble Court. Therefore, necessary amendment may be allowed in the interest of justice.”

The Application was partly allowed to the extent of change of name of the Defendant No.1, with the prayer as to the change of valuation being declined. The Revisional Court upheld the order of the trial Court, observing, inter alia, that:-

“In instant case, Applicants/Plaintiffs have not sought amendment in respect of any left-over property of the deceased, rather, they want to change the valuation of the property with statement that market value of the property is more than the pecuniary jurisdiction of the trial court. It is gathered from the Record & Proceedings that Applicants/Plaintiff themselves valued the properties @ Rs.15 million, for the purpose of valuation under section 3 of the Suits Valuation Act, 1887, Pecuniary Jurisdiction & Court fees and Defendants also did not raise any objection on the pecuniary jurisdiction of the Trial Court, thus, at the time of the valuation of the properties at the time of institution is the determining factor quo pecuniary jurisdiction under section 6 of the CPC, but not the market value or sale price, obtained by the Commissioner pursuant to Preliminary Decree.”

On query posed as to what perversity or illegality afflicted the Orders of the fora below, learned counsel for the Petitioners was found wanting and invited attention to certain Paragraphs of the Memo of Petition so as to argue that certain other applications under Order 22 Rules 2 & 3 CPC, Order 22 Rule 4 CPC, Order I Rule 10 CPC and yet another Application under Order VI Rule 17 CPC had been filed in the Suit, the outcome of which would be impacted by the subsistence Orders.

We do not find any force in such submissions. Needless to say, once those Applications are decided, any party aggrieved would have the right to avail the appropriate remedy, and the propriety of the relevant Orders would fall to be tested on their own merit. As such, we are of the view that the Petition is misconceived, with no case for interference being made out in exercise of the Constitutional jurisdiction of this Court. Hence, while granting the application for urgency, we hereby dismiss the Petition *in limine*, along with the pending miscellaneous application.

JUDGE

CHIEF JUSTICE

MUBASHIR