

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C. P. No. D-2523 of 2023

Date	Order with signature of Judge
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FRESH CASE.

1. For orders on Misc. No.12164/2023.
2. For orders on Misc. No.12165/2023.
3. For orders on Misc. No.12166/2023.
4. For hearing of main case.

25.05.2023.

Mr. Muhammad Yaseen Azad, Advocate for the Petitioner
alongwith Mr. Muhammad Qasim Iqbal, Advocate.

YOUSUF ALI SAYEED, J. - The Petitioner has invoked the jurisdiction of this Court under Article 199 of the Constitution, impugning the Order dated 07.04.2023 made by the learned Vth Additional District & Sessions Judge (MCAC), Karachi, West, dismissing Civil Revision Application No.03/2023 filed by him against the Order passed by the learned XIV Senior Civil Judge, Karachi, West on 16.01.2023 in Execution Application No.10/2022 emanating from Civil Suit No.616/2021, whereby his Application under Section 12 (2) CPC was dismissed.

The backdrop to the matter is that the aforementioned Suit had been filed for recovery of amount of Rs.9,821,770/-, with the Petitioner being arrayed as the sole Defendant and the matter culminating in an *ex parte* judgment being entered against him on 23.12.2021 and a Decree being drawn up on that date accordingly.

A perusal of the Application under Section 12(2) CPC reflects that it was based on the assertion that an incorrect address had been provided and the Petitioner had not been served. The relevant Paragraph of the Affidavit filed in support of that Application, reads as follows:-

*“6. That I say that plaintiff is my relative and he known that correct address of me **i.e. Al Al Shafiq Goods and Car Career Services, bearing Plot No.A-698-699, Main Road Corner Gate No.6, Quaid-e-Azam Truck Stand, Hawksbay Road, Karachi** but plaintiff malafidely mentioned wrong residential address i.e. **House No.D-18, Block 05 Clifton Karachi and also mentioned wrong business address i.e. Plot No.697-698 Gate No.06 New Truck Stand Hawksbay Road, Maripur, Karachi** and said house I my father leave from last 15/16 years ago and I did not receive any notice or summon from the Court and after filing the execution I received the notice therefore I appeared before the Court for proceeding the matter.”*

The S. 12(2) Application and the Petitioner’s subsequent Revision Application both came to be dismissed, as aforementioned, with it *inter alia* being observed by the Revisional Court as follows:-

“3. Learned counsel for the respondent No.1 pointed out that applicant lodged an FIR No.115/2021 at PS Maripur on 03.05.2021 in which he has mentioned the same residential and business address which is mentioned in the title of the suit as well as in the title of execution application.

4. In the light of above discussion, I am of the view that learned counsel for applicant failed to satisfy the court that why he has mentioned the same residential address as well as business address in the FIR which was lodged on 03.05.2021 when he had already left his residential address. Furthermore, it is mentioned in the order passed by learned trial Court that same address is mentioned in the Special Power of Attorney filed by the applicant before learned trial Court, therefore I am not satisfied with the contention raised by the learned

counsel for the applicant that summons have not been served upon him and respondent No.1 had obtained ex-parte judgment/order from learned trial Court by way of fraud and misrepresentation, it seems that he deliberately and willfully not appeared before the learned trial Court even after service of summons.”

A perusal of the Revision Application also reflects that the Petitioner had shown his address as Plot No. A-698 & 699, main Road Corner Gate No.6, Quaid-e-Azam Truck Stand, Hawksbay Road, Karachi, which was one of the addresses specified in the plaint. On query posed as to what perversity or illegality then afflicted the Orders of the fora below, no cogent response was forthcoming.

Under the given circumstances, we are of the view that the Petition is misconceived. Hence, while granting the application for urgency, we hereby dismiss the Petition *in limine*, along with other pending miscellaneous applications.

JUDGE

CHIEF JUSTICE

MUBASHIR