

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

C.P. No.D-2790 of 2023

[Syed Wajahat Hussain Zaidi v. Abdul Kabeer and others]

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
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**Present: - Muhammad Shafi Siddiqui
Jawad Akbar Sarwana, JJ**

Priority

1. For orders on office objection.
2. For hearing of Misc. No.13809/2023 (stay).
3. For hearing of main case.

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Dated 19.10.2023

M/s. Sawan Meghwar and Muhammad Faheem Ziz, Advocates for petitioner.

Mr. Asim Iqbal, Advocate for Respondent No.1.

Mr. Pervez Ahmed Memon, Advocate for SITE.

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This petition arises out of an order dated 29.04.2023 passed in Civil Revision Application No.82/2022.

Respondent No.1 filed a suit bearing Suit No.72/2022 against some of the officials in respect of a property identified in the prayer clause. The petitioner, on realizing that the suit referred above is pending adjudication in respect of a property where he claims interest, moved an application under Order-I Rule 10 CPC which application was allowed. The ratio of the order was that perhaps the parties are litigating on a land but identified differently. Aggrieved of it, the plaintiffs of the suit filed a Revision Application that is Revision Application No.82/2022 which was allowed on one consideration only that the petitioner/applicant who moved an application under Order-I Rule 10 CPC has also subsequently filed a separate/independent suit in respect of the land in question.

We have heard learned counsel for the parties and perused the material available on record.

The reasoning assigned by revisional court could hardly form ratio for allowing or disallowing an application under Order-I Rule 10

CPC. The revisional court is under the obligation to provide reasons as to whether applicant/ petitioner is a necessary and proper party or otherwise. It does not form valid reasoning that since he has filed a separate suit, therefore, there was no reason to implead the applicant/petitioner as a necessary and property party, if the law otherwise requires him to be impleaded as such.

Mr. Asim Iqbal, learned counsel appearing for the respondents though insisted that there is no identity of the land in question and the two lands, as identified, are different and distinct yet he was reluctant to support the only reason provided by the Additional District & Sessions Judge, that since a separate suit has been filed, therefore, no need to be a party. We expect that a proper reason should have been provided while deciding the Revision Application in relation to an application under Order-I Rule 10 CPC and the justice to the office of Additional District & Sessions Judge has not been done by disposing off the lis on a cursory and in a manner which does not show the application of mind. Hence the jurisdiction was not exercised properly. This is sufficient if the land being claimed is same or claimed to be same.

We, therefore, are of the view that the impugned order is not sustainable. Without touching the merits of the case the petitioner be impleaded as necessary and proper party. The impugned order is set aside and petition to such an extent is allowed. Respondent No.1, however, may pursue the matter insofar as merit of the case is concerned.

JUDGE

JUDGE

Ayaz Gul