

**ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI**

C.P. No.D-2228 of 2024

Mahesh Raj Kumar  
Versus  
Shyam Prem Shahani & others

Date	Order with signature of Judge
------	-------------------------------

1. For orders on Misc. 10383/24
2. For orders on Misc. 10384/24
3. For orders on Misc. 10385/24
4. For hearing of main case.

**Dated: 15.05.2024**

Mr. Aziz-ur-Rehman Akhund for petitioner.

-.-.-

Shyam Prem Shahani and Jitendra Prem Shahani, respondents No.1 and 2, filed a suit for declaration, mandatory injunction, cancellation, possession and permanent injunction, which was contested by the defendants including the appellant. While the suit was contested and pending, an application under order VII Rue 11 CPC was filed by the appellant on the following grounds:

- 1) The plaintiffs have no legal character/locus standi to file the present suit, as they cannot be termed to be legal heirs/Reversioners of deceased Narayana Kewal Ram Shahani (uncle) in respect of both suit properties, which were admittedly purchased by deceased through his Bank Account, who was the absolute Last Full Owner of both these Suit-Properties at the time of his death.
- 2) That the Suit-Properties were never remained Joint Hindu undivided family Properties, therefore are the coparcenary and the plaintiffs are not the coparceners of Suit-Properties.
- 3) That deceased Narayana Kewal Ram Shahani in his life time bequeathed immoveable properties [including Suit-Properties] by registered Last WILL & Testament bearing Regn. No.06,

Book No.III, Sub-Registrar-T Div.II-B dated 17.09.2005 M.F. Roll No.U-94165/2912 Photo-Registrar Karachi dated 10.10.2005 to Mrs. Geeta Narayana Shahani, therefore question of inheritance {about Suit-Properties to legal heirs} already devised in favour of Mrs. Geeta Shahani does not arise.

- 4) That the [now deceased] Mrs.Geeta Narayana Shahani were always having full right of ownership of all the properties obtained/acquired by devise and have never ever limited interest upto her lifetime.
- 5) The plaint does not disclose a clear cause of action to proceed with above Suit, which must rest as no fruitful result can be achieved, except wastage of precious time of this Hon'ble Court.

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

Learned counsel for the petitioner has filed this petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 whereas the two forums below have rejected/dismissed the application under order VII rule 11 CPC. We are not an appellate Court to peruse and scrutinize the two orders unless a jurisdictional defect is pointed out, which in the instant case learned counsel for the appellant has not been able to point out.

During course of the arguments learned counsel for petitioner has emphasized only on ground No.3 in the application under order VII rule 11 CPC wherein petitioner's right and title in respect of the subject property is being claimed through a will bequeath, which is the subject matter of the suit which could only be thrashed out through evidence and not otherwise summarily. The petition thus merits no consideration and is accordingly dismissed along with listed applications.

**Judge**

**Judge**