

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH**  
**CIRCUIT COURT MIRPURKHAS**

Constitutional Petition No. D-630 of 2024  
(*Muhammad Irshad Khan Rajput Vs. Mst. Rukhsana Shazi Rajput & others*)

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| <b>DATE</b> | <b>ORDER WITH SIGNATURE OF JUDGE (S)</b> |
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*Before:*

*Adnan-ul-Karim Memon, J.*

*Amjad Ali Bohio, J.*

Date of hearing and Order: 26.08.2024

Mr. Karamullah Memon advocate holding brief for petitioner's counsel.

Mr. Muhammad Yasin M. Khaskheli advocate for respondent No.6.

Mr. Aziz Ahmed Laghari advocate attorney of respondent No.5

Mr. Ayaz Ali Rajpar, Additional A.G., Sindh.

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**ORDER**

*Adnan-ul-Karim Memon, J.* The Petitioner Muhammad Irshad through his legal heirs has filed this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, seeking annulment of the Order dated 21-11-2023 passed in Civil Revision Application No.37/2023 by 2<sup>nd</sup> Additional District Judge/MCAC Sanghar and Order dated 22-09-2023 passed in F.C Suit No.182/2019 by the 1<sup>st</sup> Senior Civil Judge Sanghar, whereby his application for restoration of Civil Suit was dismissed being barred by time.

2. After arguing the matter at some length, both parties agreed to the disposal of this petition in terms that the subject suit shall be decided on merits by allowing parties to adduce their respective evidence. They further submitted that the F.C Suit No.53 of 2024 Re: *Muhammad Taj v. Mst. Rukhsana* pending before 2<sup>nd</sup> Senior Civil Judge, Sanghar, be consolidated with subject suit i.e. F.C Suit No.182 of 2019. If this a position of the case coupled with the factum that the learned Senior Civil Judge dismissed the application of the petitioner under Order IX Rule 9 seeking restoration of suit dismissed in default due to nonpayment of costs vide order dated 28-10-2022 to its original position. Since, the matter needs to be heard and

decided by the trial Court on merits by allowing the parties to adduce their respective evidence to substantiate their claim on the subject issues; therefore, judicial propriety demands that the matter be decided on merits, rather than dismissal of case on technical grounds.

3. By consent, the instant petition is disposed of in the above terms. The aforesaid suits shall be decided preferably within a period of two months.

**JUDGE**

**JUDGE**

*\*Jabbar\**