

Order Sheet
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD

C.P. No. D-2597 of 2019

[Muhammad Aslam v. Mst. Fazal Bibi and others]

BEFORE :

Mr. Justice Khadim Hussain Tunio
Mr. Justice Yousuf Ali Sayeed

Petitioners : through Mr. Waheed Ahmed Awan, Advocate
Mr. Rafiq Ahmed Dahri, Asstt. A.G.

Respondents : Nemo

Date of hearing
& decision : 25.04.2024

ORDER

YOUSUF ALI SAYEED, J: - The Petitioner has invoked the jurisdiction of this Court under Article 199 of the Constitution, impugning the Order made on 27.08.2019 by the 4th Additional District Judge (MCAC) Shaheed Benazirabad, dismissing Civil Revision Application No. 33 of 2018 preferred by him against the Order made on 05.11.2018 by the 3rd Senior Civil Judge, Nawab Shah, rejecting the plaint in Suit Number 295 of 2018.

2. As is apparent from the record, the plaint was rejected as the learned trial court found that there was no underlying cause of action, in as much as the right espoused by the Petitioner/Plaintiff was not one that was recognised in law. Indeed, a perusal of the plaint reflects that the Suit was essentially directed against the Respondents Nos. 1(a) to (f), being the children of his deceased sister, Mst. Fazal Bibi, who is said to have inherited 1 acre of agricultural land out of 7-27 acres that had been under the ownership of their late father. In terms of the plaint, it was alleged that the Respondents Nos. 1(a) to (f) were contemplating a sale of that 1 acre to the Respondents Nos. 2 to 5, with it being prayed that, if it be so, they be directed to instead sell the same to the Plaintiff or his brothers, as they were holders of the adjacent lands.

3. Under the circumstances, it is evident that the Suit was anticipatory, being predicated on a mere apprehension, with no valid cause of action having crystallised in favour of the Petitioner. As such, we are of the view that the plaint was rightly rejected on that score. Even otherwise, it falls to be considered that the Revision Application was incompetent as the Order for rejection of the plaint was appealable.

4. As such, for the foregoing reasons, the Petition was found to be devoid of force and was dismissed accordingly vide a short Order dictated in Court upon culmination of the hearing on 25.04.2024.

JUDGE

JUDGE