

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

Civil Revision Application No. S-210 of 2024
(Old No.S-193/2019/Hyderabad)
(*Moula Bux & others Vs. Province of Sindh & others*)

DATE ORDER WITH SIGNATURE OF JUDGE

Date of hearing and order 26.09.2024

Mr. Muhammad Zainuddin Baloch, advocate for the applicants.

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

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ORDER

Adnan-ul-Karim Memon, J. The applicants have filed this Civil Revision Application against the order dated 21.08.2019 passed by the learned Additional District Judge-II, (MCAC) Sanghar, in Civil Miscellaneous Appeal No.07/2016 (*Re-Moula Bux Vs. Province of Sindh & others*), whereby, the learned appellate Court dismissed the appeal of applicants and maintained the order dated:06.08.2016 passed by the Senior Civil Judge Sangahr, whereby he dismissed the execution application No. Nil of 2018 (*Re- Moula Bux & others Vs. Province of Sindh & others*).

2. The facts, in a nutshell, are that each applicants/plaintiffs were allotted 16-00 acres out of U/A No.1, Deh Sadrat-4, Taluka & District Sanghar, as per Land Grant Policy, survey of said land was carried out and survey numbers 2846 to 2967 were formed out, such sketch was prepared and entry of each survey number of each plaintiff was made in Form-A, thereafter, water for suit land was sanctioned. All of a sudden applicants/plaintiffs came to know about the order of respondent/defendant No.2 regarding cancellation of Ghat-Wadh Forms and fresh measurement, hence the plaintiffs/applicants have filed suit before the trial Court against the official defendants as well as 33 numbers of respondents/private defendants, said suit was dismissed by the trial court and the applicants/plaintiffs have filed Civil Appeal No.54/2013 and in the above appeal compromise application U/O XXIII rule 3 CPC r/w sec. 151 CPC was filed jointly by applicants/plaintiffs and private respondents No.8, 9, 22 to 14, 16 to 30, 32 to 41, and accordingly Civil Appeal No.54/2013 was ended with a compromise decree. The compromise took place between private parties and Government respondents were bye-passed, though there

was Government interest/property was involved in the matter. After the compromise decree dated 19-02-2005 the applicants (120 in number) filed an Execution Application against the Member Board of Revenue, Director Settlement Survey, and other officials, though the above-mentioned government respondents were not a party in the said compromise decree dated 19-02-2015. The trial Court vide order dated 06-08-2016 dismissed the Execution application filed by the applicants for the reason that (1) the decree holders have to seek execution of the decree from the Court who passed the decree on compromise application and (2) the compromise decree was passed between the private parties and the decree holders seeks relief against Government respondents which is against the law; hence, the applicants have filed the Civil Appeal No: 07 of 2016, which too, was dismissed by the learned Additional District Judge-II, (MCAC) Sanghar with the following reasoning: -

POINT NO.1

8. From the perusal of material placed on record as well as I have gone through the record and proceedings of the learned trial Court, it appears that

Plaintiff/applicants have filed a civil suit against Government defendants as well as private defendants challenging the orders of defendant No.2 regarding the cancellation of Ghat-Wadh Forms in respect of plaintiffs/applicants and fresh measurement. The trial Court dismissed the said suit of plaintiffs/applicants and the applicants/plaintiffs have filed Civil Appeal No.54/2013 before the appellant Court and before the appellate Court (2nd Additional District Court Sanghar) in C.a. No.54/2013, a compromise application U/O XXIII rule 3 CPC r/w sec. 151 CPC was filed jointly by applicants/plaintiffs and private respondents No.8, 9, 22 to 14, 16 to 30, 32 to 41. The Government respondents were not a party in the compromise; accordingly, Civil Appeal No.54/2013 was ended with a compromise decree dated 19-02-2015.

9). Since the Government respondents were not part of the compromise though there was Government interest/property involved in the matter, therefore, the compromise between private in respect of Government property/interest is defective and illegal and after such an ineffective compromise decree dated 19-02-2005 filing of Execution Application by the applicants (120 in numbers) against the Member Board of Revenue, Director Settlement Survey and other officials is frivolous, hence, the trial Court through the impugned order has rightly observed that the compromise decree was passed between the private parties and seeking execution of such decree against Government respondents is against the law.

10) The upshot of above discussion is that as per the discussed reasons the impugned order passed by the learned trial Court is proper and legal in accordance with law. The trial Court did not commit any illegality or any irregularity as such, the same does not require interference of this Court. Under such circumstances point No.1 is answered in affirmative.

POINT NO.2

11). In view of my findings on point No:1, the impugned order dated 06-08-2016 is hereby maintained. Resultantly, the appeal in hand stands dismissed with no order as to costs.

3. The learned counsel for the applicants has argued that the orders passed by the lower courts are challenged as being contrary to law, facts, equity, and natural justice; that the appellate court's order is criticized for blindly endorsing the trial court's decision without proper legal justification; that the lower courts erred in holding that an execution application could be filed where a compromise was reached between the parties; that the courts wrongly concluded that the compromise was between private parties and thus execution against government officials was improper. It's argued that government officials are bound to comply with court orders, regardless of their party status; that the lower courts failed to consider that the compromise decree attained finality due to lack of objections or appeals from government officials; that the executing court cannot question the validity of a decree but must execute it according to its terms; that the suit property was mentioned in the plaint and proceedings; that the lower courts failed to provide sufficient reasons for their decisions; that the orders suffer from patent illegalities; that the courts misinterpreted facts and law, leading to a miscarriage of justice; that the courts acted illegally and with material irregularities; that the orders are without lawful authority and should be struck down; that the orders unjustly deprive the applicants of their legal rights; that the orders disregard established legal principles.

4. The learned AAG argued that the compromise decree was defective and illegal because it involved government property without the government's participation. The trial court rightly agreed and dismissed the applicants' subsequent execution application against government officials. The appellate court upheld the trial court's decision, finding that the compromise decree was invalid and that the execution application was frivolous.

5. I have heard the learned counsel for the parties present in court and perused the record with their assistance.

6. The applicants (plaintiffs) filed a civil suit against the government and private respondent/defendants challenging the cancellation of their Ghat-Wadh forms and the subsequent re-measurement. The trial court dismissed the suit. The applicants appealed to the appellate court, where they reached a compromise with certain private respondents but not with the government.

7. The courts below have consistently found against the applicants' claims, and these decisions should not be overturned in a revision proceedings unless extraordinary circumstances exist. A revision court does not re-examine evidence like an appellate court.

8. Based on the foregoing, the findings of the courts below are not jurisdictionally flawed and do not show any misreading or non-reading of evidence that could have led to a miscarriage of justice. Therefore, the revision application is without merit and is dismissed. Each party will bear their costs.

9. These are the reasons for my short order even date, whereby, the Revision Application is dismissed.

JUDGE

"Ali Sher"