

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Civil Revision Appln. No. S- 86 of 2024

Date	Order with signature of Judge
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Hearing of Case/Priority

1. For orders on office objection-A.
2. For hearing of CMA No.522 of 2024. (S/A)
3. For hearing of main case.

02.10.2025.

Mr. Mazhar Ali Mangan, Advocate for the Applicants.

Mr. Ghulam Ali Abbasi, Advocate for the Respondent No.1

Mr. Abdul Waris Bhutto, Astt. A.G.

The background of the matter reflects that respondent No.1 had instituted a suit for pre-emption against the applicants and other before the learned trial Court. The trial Court, after recording evidence and hearing arguments, dismissed the said suit. Being aggrieved, respondent No.1 preferred an appeal before the learned appellate Court. During the pendency of the said appeal, respondent No.1 moved an application for withdrawal of the appeal along with permission to file a fresh suit before the trial Court. The learned appellate Court, after hearing the parties, allowed the said application. Being dissatisfied and aggrieved by the withdrawal order, the applicants have filed the instant civil revision application.

Learned counsel for the applicants, after addressing his arguments at some length, does not press this revision application. However, he has advanced the submission that if at all respondent No.1 initiates any fresh litigation before the competent forum, then all legal exceptions and objections available under the law shall be raised by the applicants, and the trial Court would be under a prime obligation to adjudicate upon those legal issues at the very outset before allowing the matter to proceed further. It is further submitted that respondent No.1 intends to cure the defects of the previously filed suit, which, according to learned counsel for the applicants, cannot be treated as mere formal defects. Thus, in case of any fresh suit, the trial Court shall first settle and decide the legal questions before calling upon the parties to lead evidence.

Conversely, learned counsel for respondent No.1 submits that, as of today, no fresh civil suit has been instituted by respondent No.1. He, however, maintains that if and when any such suit is filed, it shall only be instituted upon the accrual of a proper cause of action and within the framework of law.

Learned Assistant Advocate General contends that the appellate Court exercised its discretion in allowing the withdrawal application. It is pointed out that respondent No.1 himself admitted in his withdrawal application that the earlier suit was filed at a premature stage, and therefore, liberty was sought to institute fresh proceedings as and when the cause of action properly accrued. Learned A.A.G. further submits that the right to institute a suit is a legal remedy available to every litigant under the law, and no one can be restrained from availing the same, subject to legal limitations. Nevertheless, it is equally emphasized that once any fresh suit is filed, the trial Court, being a court of law, is bound in the first instance to adjudicate the preliminary legal questions, if raised, before proceeding to the evidentiary stage.

Heard. Be that as it may, since the learned counsel for the applicants has chosen not to press this civil revision application, the same stands disposed of accordingly as not pressed. It is, however, clarified that in the event respondent No.1 institutes any fresh civil suit, the competent Court shall, as a matter of judicial duty, first decide the legal questions raised before it and thereafter proceed further in accordance with law.

JUDGE