

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Present: Justice Jawad Akbar Sarwana

Civil Revision Application No.248 of 2023

Applicant : Utility Stores Corporation of Pakistan
Through Mr.Ali Asghar Mangi, Advocate

Respondent No.1 : Sikandar Ali s/o Sher Muhammad Jalbani
Nemo.

Respondent No.2 : Abdul Hadi s/o Muhammad Sachal Qureshi.
Nemo.

Date of hearing : **22.10.2025**
Date of decision : **02.01.2026**

ORDER

JAWAD AKBAR SARWANA, J.: The Applicant/plaintiff, Utility Stores Corporation (Pvt.) Ltd., is aggrieved by the judgment dated 09.03.2023 passed by the learned Additional District Judge-IV, Shaheed Benazirabad, in Civil Appeal No. 29/2022. The said appeal, preferred by the respondent No.1/defendant was allowed, and the judgment and decree dated 16.03.2022, passed in F.C. Suit No. 210/2022 by the Senior Civil Judge-II, Shaheed Benazirabad ('the trial Court'), were set aside. The matter was remanded to the trial Court for recording pro and contra evidence and for a fresh decision on the merits in accordance with the law.

2. Heard learned Counsel and perused the record. It is an admitted position that the summons was issued to the respondents/defendants, and they filed their written statement dated 28.07.2016. However, the applicant/plaintiff-Utility Stores' suit was thereafter dismissed for non-prosecution, after which the applicant/plaintiff filed an application under Order 9 Rule 9 CPC for its restoration. As per Applicant Counsel, and documents available on record, it is admitted that while the trial Court as per its Order dated

16.10.2020 found that the service of summons was held good on the respondents/defendants, yet the trial Court, did not pass any Order to set aside the Order dismissing the suit. The applicant/plaintiff Counsel has neither filed nor produced any order passed by the trial Court restoring the suit, and yet the trial Court proceeded to debar the respondents/defendants vide Order dated 08.04.2021. Thus, the appellate forum remanded the matter to the trial Court on the ground that the respondent/defendant had not been afforded an opportunity to lead evidence. Applicant Counsel conceded too that the trial Court has yet to proceed with the recording of evidence after the case was remanded to the trial Court by the appellate forum. It appears in the totality of the matter that no useful purpose will be served by undertaking a detailed examination in this revision regarding the impugned appellate order remanding the case back to the trial Court when the impugned judgment of the trial Court cannot be said, without doubt, to be passed on merits, given the background discussed herein as well as the reasoning articulated by the appellate forum in the impugned appellate judgment. Notwithstanding that I do not find any defect in the impugned appellate judgment dated 09.03.2023, I am inclined to remand the case to the trial Court.

3. Given the above, this revision is dismissed, with the directions to the trial Court to complete the recording of evidence and final arguments within six (6) months from the date of receipt of this Order. It is further clarified that the observations made by the appellate forum in the appellate judgment shall not be taken into consideration or relied upon by the trial Court and/or any of the parties during its rehearing before the trial Court.

4. The revision is dismissed in the above terms.

JUDGE

AHSAN K. ABRO