

ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.

R.A. No.176 of 2014.

DATE	ORDER WITH SIGNATURE OF JUDGE
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For orders on CMA-1001/14.
For katcha peshi.
For orders on CMA-1002/14.

29.08.2014.

Mr. Nazeer Ahmed Bhatti, Advocate for applicant.

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1. Urgency granted.

2&3. Learned counsel for the Applicant submits that the Applicant is aggrieved by the concurrent findings of the Courts below for rejection of his plaint on account of non-payment of Court fees.

His contention is that the learned trial Court has not examined the question of valuation and according to him, the value of the property was less than Rs.50,000/- and no Court fee was required.

However, without going to the merits of the case, apparently the Courts below never demanded Court fee from him in terms of Order 7 Rule 1(b) CPC before rejection of the plaint. It is duty of the Court to direct the plaintiff in terms of section VII Rule 1(b), CPC to pay the deficit Court fee and such order has not been passed by the trial Court, therefore, rejection of the plaint only on the ground of Court fee is contrary to law. The plaintiff is ready to pay the Court fee. In the circumstances, I am of the view that the plaint cannot be rejected under Order VII Rule 11, CPC unless the Court has ordered to pay the Court fee in a specified date and plaintiff failed. The question of res-judicata in situation like this would not come in the way of plaintiff, he may file afresh suit with the relevant Court and trial Court should decide the matter in accordance with law.

With this observation, learned counsel for the Applicant does not press this revision application, which is accordingly disposed of in the above terms.

JUDGE.

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