

ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.
R.A. No.49 of 2012.

DATE	ORDER WITH SIGNATURE OF JUDGE
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For katcha peshi.
For hearing of CMA-1276/12.

23.09.2014.

Mr. Sartar Iqbal Panhwar, Advocate for the applicant.
Mr. Abdul Hameed Bajwa, Advocate for Respondents No.1 and 2.

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1&2. Learned counsel for the applicant has challenged concurrent findings of Courts below whereby application under Order VII Rule 10, CPC for return of the plaint was disallowed. He claims that he filed application for return of the plaint after recording of evidence of the plaintiff, who in examination-in-chief has made certain statements hitting the jurisdiction of trial Court. The said piece of evidence has yet to be examined by the trial Court at the time of final disposal of the case along with entire evidence of both the sides on the issues which were framed by the trial Court on 28.9.2010. Once application was dismissed on the ground that the case is now fixed for final arguments, he filed an appeal bearing Misc. Civil Appeal No. Nil of 2012. Learned counsel for respondent who is plaintiff before the trial Court stated at the bar that all evidence have been concluded and the case is ripe for final arguments, therefore, there is no justification to examine the revision application against the concurrent findings. It is settled law that the Courts should decide the cases on merits without going into the technicalities and in case the question of jurisdiction raised by the

learned counsel can also be decided by the trial Court keeping in view the evidence available on record. Both the Court below have followed the principle of deciding the case on merit instead of technicalities. No interference can be justified in such findings. The revision application is dismissed along with pending applications.

JUDGE.