

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

R.A. No. 190 of 2012.

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**DATE ORDER WITH SIGNATURE OF JUDGE**

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For katcha peshi.

For hearing of CMA-760/13.

02.09.2014.

Mr. Talib Hussain Arain, Advocate for the applicants.

Syed Ghulam Hyder Shah, Advocate for Respondents No.1 to 3.

Mr. Ashfaque Nabi Qazi, A.A.G.

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Mr. Haji Khan Hingorjo, Advocate files power on behalf of respondents No. 7 and 8, which is taken on record.

This civil revision is directed against the order dated 26.5.2012, whereby the learned appellate Court has dismissed an application under Order XLI Rule 5 CPC filed on behalf of the applicants for seeking suspension of the impugned order of the trial Court.

The appeal pending before first appellate Court can be heard and decided on one date of hearing and under the cover of this civil revision two years times have already been lapsed in disposal of the appeal. Apparently, there is no merit in this civil revision since the appellate Court is not bound to grant application for suspension of the decree.

The only ground raised by the learned counsel for the Applicant in support of this revision application is that since the appeal has been admitted, therefore, the stay should have been granted, however, he is unable to explain how concept of admission of appeal comes in proceedings before lower appellate Court. The appellate Court cannot pass order without hearing the parties and the appeal could have been decided on one date of hearing, therefore, it was no necessity to suspend the impugned order. This civil revision has no merit and the same is dismissed. However, learned appellate Court is directed to dispose of Civil Appeal No.37 of 2012 on merits within 15 days from the date of receipt of this order so that no grievance on account of pendency of the appeal be

available with the Applicant/appellant. Failure on the part of the appellant to proceed with the appeal before the lower appellate Court cannot be an excuse for grant of stay. The appellate Court is also directed to pass judgment within fifteen days even in the absence of the parties, if they failed to proceed with the matter on the first date of hearing and the judgment should be announced on the basis of available record. Parties and their counsel are directed to appear before the appellate Court within 10 days along with certified copy of this order, so that Court motion notice should not be claimed. Compliance of this order by lower appellate Court should be reported through Additional Registrar of this Court.

The revision application is disposed of in the above terms.

JUDGE.

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