Form No.HCJD/C-121

ORDER SHEET

ISLAMABAD HIGH COURT ISLAMABAD

Civil Revision Petition No.477 of 2004.

Mrs. Tahira Asif Mir

Versus

Muhammad Hanif Chauhan,

S.No. of order / Proceeding	Date of order/ proceeding	Order with signature of Judge, and that of parties or counsel, where necessary.
	29-11-2011	**Nemo for the petitioner.** **Mr. Muhammad Shabbir Buhtta, Advocate on behalf of counsel for the respondent alongwith respondent.**

None turned up on behalf of the petitioners despite repeated calls.

2. This Civil Revision is directed against impugned judgment dated:05-06-2004 passed by the learned District Judge, Islamabad, resulting into dismissal of the revision petition filed against the order dated:24.11.2003 whereby right of filling the written statement of petitioners/defendants was closed for want of adherence to the provision of Order VIII, Rule 1 CPC. Instant Revision Petition was admitted to regular hearing vide order dated:09.09.2004 and by order passed in C.M No.2/2004 proceedings before the trial court were stayed. The agony of the respondent/plaintiff started thereafter as, despite the lapse of more than 07 years this revision petition could not be decided mainly for the reason that learned counsel for the petitioner was not available. The matter was fixed on yesterday i.e 28.11.2011 but neither

the learned counsel nor the petitioner appeared in person before this court, however, the clerk of the learned counsel placed an application for adjournment on the ground that the learned counsel is indisposed of.

3. The matter was directed to be placed for today but no one on behalf of the petitioners turned up, even today. Therefore, I am left with no other option except to peruse the record myself and to decide, whether any interference in the concurrent findings recorded by the courts below is called for or not?

4. This Civil Revision is a second revision petition which is not maintainable as judgment/order impugned through instant petition was passed by the Learned District Judge while exercising powers under Section 115(2) C.P.C. Now, same exercise can not be carried out by the High Court. The statue itself put, strict bar on the same as contained under Section 115(4) CPC which reads as under:-

> ***"No proceedings in revision shall be entertained by the High Court against an order made under Sub-Section 2 by the District Court".***

Reference is made to (Mohammad Yousaf's case) reported as 1993 MLD 2138.

Although, the very revision petition was not entertainable still it was admitted to regular hearing perhaps on the assumption that order impugned was passed in Appeal.

5. The order sheet reveals that the suit was filed by the plaintiff/respondent, on 14.02.2003. It was ordered to

be registered and postponed to 18.02.2003 for appearance of the petitioners/defendants. Summons were ordered to be issued. On 18-02-2003, no one appeared on behalf of the petitioners/defendants, and after hearing learned counsel for the respondent/plaintiff, the learned trail court issued a restraint order and adjourned the suit to 26.02.2003, for attendance of the petitioners/defendants. The suit was then posted to 06.04.2003 and 14.04.2003, but the petitioners/defendants did not turn up, and it was ultimately on 18.06.2003 when the petitioner/defendant No.2, put appearance and informed the court that petitioner/defendant No.1 is his wife, and he requested for adjournment for filing of the written statement, and written reply. Then matter was posted to 14.07.2003, but on this date of hearing, no one put appearance on behalf of the petitioners/defendants, therefore, the petitioners/defendants were proceeded against ex-parte, and the case was adjourned to 03.09.2003 for recording of ex-parte evidence. On said date the petitioners/defendants moved an application for setting aside the ex-parte proceedings. Notice of which was given to the respondent/plaintiff and the proceedings were posted to 15.09.2003, but as per record, the reply could not be submitted, hence the application was allowed vide order dated.20.10.2003, and the ex-parte proceedings were set aside, and the matter was fixed for 10.11.2003, for filing of written statement. On fixed date, counsel for the parties were present but written statement was not filed, hence the case was adjourned to

18.11.2003, but on this date, once again, same was the position and on request of the petitioners/defendants, the case was adjourned to 20.11.2003, when the learned Presiding Officer was on leave and the matter was posted to 24.11.2003. On this date, again the suit was kept pending till closing hours, for filing of the written statement, but the petitioners/defendants failed to file the same hence the right to file written statement was struck off.

6. Order dated.24.11.2003 was impugned by way of filing the Civil Revision before the learned District Judge, who after providing proper opportunity of hearing to the parties and minute examination of the record did not find any infirmity or jurisdictional defect in the same and dismissed the Civil Revision through elaborate judgment dated.05.06.2004.

7. The conduct demonstrated by the petitioners throughout, speaks volume of their malafide, ulterior motives and cryptic approach to frustrate the judicial proceedings. They are found in playing the game of hide and seek instead of paying respect to court of law and proceedings pending before it. In my view such type of litigants are responsible for causing delay in the early decision of the cases pending before the courts, resultantly, eye brows are raised by the aggrieved party about the Judicial System and the Courts. Although, dynamic, observant and vibrant Institution of the Judiciary has been trying it's best to curb such type of practices and all humanly possible endeavours are being made for quick adjudication of the matters brought/pending before

it. The mannerism of the petitioners even before this court remained dissolute which fully established this fact that petitioners side aim and object was to linger on, rather trammel the proceedings on one pretext or the other.

8. Thus for the forgoing reasons, this civil revision is dismissed with costs of Rs:20,000/-. The learned trial court is directed to proceed in the matter expeditiously and decide the same preferably within 03 months of the receipt of the order passed.

(SHAUKAT AZIZ SIDDIQUI)
JUDGE

"Waqar Ahmed"
Blue slip added

Approved for Reporting.

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