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C.R.No. 28880 of 2019

Maqbool Ahmad, etc.

<i>Sr. No. of order/ proceedings</i>	<i>Date of order/ Proceeding</i>	<i>Order with signature of Judge, and that of Parties' counsel, where necessary</i>
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Mr. Muhammad Abbas Chohan, Advocate for applicant.

The applicant, who was petitioner in main Civil Revision (which was dismissed on 19.12.2023), has filed this application under Section 151 C.P.C praying for re-hearing of the main Civil Revision, which has been placed before this Court by the office by raising objection at Sr. No. 14 that how this application is competent as the main case was dismissed vide order dated 19.12.2023 and objection regarding maintainability, on an earlier application on same subject for re-hearing, has already been sustained on 20.02.2024.

2. The applicant has contested the said objection raised on instant application by stating that the titled Civil Revision was fixed for hearing on 19.12.2023 when at the outset before the applicant's counsel could start his arguments, the court asked him to read out the plaint and when the plaint was read over, the Court opined that since in the plaint, no place, date, time of the oral agreement and names of the witnesses had been mentioned, therefore, the suit was not competent, to which the applicant's counsel

replied that since the respondents had filed a conceding written statement, therefore, non-mentioning of date and time etc., in the plaint were not fatal to his case, as facts stood admitted by the respondents/defendants. On this the court remarked that if the respondents had conceded the applicant's claim, then there was no need to file the Civil Revision and with the above observations, the Civil Revision was held to be not maintainable, and as such, it was dismissed without hearing any arguments in support of the Civil Revision.

3. The applicant earlier filed an application for re-hearing of Civil Revision by mentioning similar assertions, upon which objection was raised that how the application was competent when main case had been dismissed vide order dated 19.12.2023 and the said objection was sustained on 20.02.2024. It is claimed that the objection was decided without providing any reasons for the same. The counsel for the applicant further states that as opportunity had not been provided for addressing arguments on the Civil Revision, the instant application for re-hearing is maintainable.

4. The perusal of the record of main Civil Revision shows that Civil Revision was entertained in the presence of counsel for the applicant on 14.05.2019 when notices were issued to the respondents for 16.09.2019 and there-after the matter remained pending before this Court till 19.12.2023 when the same was decided on its merits in the presence of learned counsel for the petitioner as well as learned counsel for respondents. The Court while deciding the Civil Revision on merit had taken into

consideration that trial court had asked the applicant for submission of fresh record of rights of the property in question, which when submitted revealed that the respondents were not owners of the property in question and on the basis of said facts, it was observed that in the absence of proof of ownership of the respondents, who got recorded conceding statement that trial court had justifiably not relied upon conceding statement of the respondents and rightly observed that statement of respondents had no legal value as there appears collusiveness of the applicant and the respondents. Besides it was also observed that the owners of the property who were subsequent vendees had not been associated with the proceedings, hence, trial court was justified to dismiss the suit for specific performance filed by the applicant. In view thereof, the grievance raised by the applicant that his stance had not been taken into consideration while passing the impugned order, whereby Civil Revision had been dismissed, does not seem to be supported by the record of the case and is not sufficient to interfere in the orders earlier passed by this Court on merits of the case. Besides, re-hearing of a case cannot be ordered merely because the applicant is dissatisfied with the outcome of the case as every dissatisfied litigant may file an application for re-hearing and there would be no end to litigation rather the same can only be ordered where the applicant substantiates before the Court that he was prevented by sufficient cause beyond control to appear before the Court when the case was called for hearing. Reliance is placed on **2006 YLR 2280 [Lahore]** (*Yasrab Traders vs. Market Committee*). In the present case, while

hearing the Revision, not only the merits of the case were discussed but on the basis of same, the case was decided and there was no reason for re-hearing of the matter solely for the reason that applicant is dissatisfied with the decision especially when the stance of the applicant that his counsel had not been granted proper hearing was not emanating from the record of the case. This resulted in up-holding of objection No. 13431 vide order dated 20.02.2024 on earlier application for re-hearing on the ground that said application was not maintainable as main case had been dismissed on merits vide order dated 19.12.2023. The Court was not required to give detailed reasons for up-holding the said office objection for the reason that office objections are decided on administrative side by the Court and not on judicial side unless of course subject to the exception that the Courts deem it appropriate to decide the same on judicial side. Reliance is placed on **PLD 2023 Islamabad 132** (*Tausif Ahmed Versus Muhammad Wakeel and another*), **PLD 2014 Lah. 436** (*Rana Naveed Ahmad Khan V. Province of Punjab through Secretary LG and CD*), **2021 MLD 1234** (*Siraj Ahmad Versus Registrar, Lahore High Court, Lahore*) and **2021 P Cr.L J 682** (*Tahira Naseem v. Arshad Mehmood and others*).

5. Moreover, the second application again praying for re-hearing of the afore-mentioned objection as well as the main Civil Revision at this stage is also not maintainable as subject to certain exceptions which are not available in the present case, filing of successive applications on the same subject matter even though on different grounds is not

permissible under the law and the applicant was required to take all the grounds available to him at the time of filing first application and subsequent application after decision of earlier application would be barred. In this behalf, principles laid down in judgments reported as **PLD 2002 Supreme Court 74** (*Muhammad Boota and another Vs. Moor Begum and 2 others*), **PLD 1962 (W.P.) Lahore 45** (*Subedar Muhammad Afzal Vs. Syed Nafis Ahmad and others*) and **2010 MLD 894** (*Haji Inayat Ali Vs. Haji Rehmat Ali and 16 others*) may be referred.

6. Besides by up-holding the office objection, the matter had come to an end and the applicant had the remedy to challenge the order dated 19.12.2023, whereby Civil Revision was dismissed before the higher forum, therefore, there was no justification in the present case for re-hearing of the matter as it was not the case of the applicant that due to non-availability of his counsel for sufficient cause, opportunity of hearing had not been provided rather the case of the applicant is that after hearing preliminary submissions of his counsel, the main Civil Revision had been dismissed without appreciating facts of the case, which assertion of the applicant is contrary to the facts of the case in hand. In view of the above, office objection of maintainability raised against the instant application for re-hearing, which even otherwise is a subsequent application on the same subject, is **sustained**.

(Muzamil Akhtar Shabir)
Judge

Zeeshan Khan

Approved for reporting