

**ORDER SHEET**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**  
**JUDICIAL DEPARTMENT**

**C.R.No.283/2019**  
**Ministry of Interior Employees Housing Society**  
**Versus.**  
**Malik Ghulam Jillani and others**

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	11.07.2019	Sheikh Muhammad Suleman and Sheikh Junaid Nadeem, Advocates for the petitioner.

Through the instant civil revision petition, the petitioner, Ministry of Interior Employees Housing Society ("M.I.E.H.S"), impugns the order dated 02.07.2019, passed by the Court of the learned Additional District Judge, Islamabad, whereby the petitioner's appeal against the order and decree dated 23.05.2019, passed by the Court of the learned Civil Judge, Islamabad, was dismissed. Vide the said order and decree dated 23.05.2019, the learned Civil Court rejected the plaint in the petitioner's suit for "declaration and permanent injunction" by invoking the provisions of Order VII, Rule 11 C.P.C.

2. The learned Courts below concurrently non-suited the petitioner primarily on the ground that the declaration sought by the petitioner could not be granted to it under Section 42 of the Specific Relief Act, 1877.

3. Learned counsel for the petitioner submitted that the concurrent orders passed by the learned Courts below suffered from jurisdictional infirmities; that the application /appeal filed by the respondents No.1 and 2 before the Court of the Deputy Commissioner, Islamabad was frivolous; that respondents No.1 and 2 were seeking to question the validity of mutation No.2567, dated 09.03.1999; that the said mutation was attested almost twenty years ago; that it was the petitioner's right to have approached the Civil Court in order to quash the proceedings pursuant to respondent No.1 and

2's said appeal/application; and that the learned Appellate Court erred by dismissing the petitioner's regular first appeal *inlimine*. Learned counsel for the petitioner prayed for the revision petition to be allowed and for the concurrent orders passed by the learned Courts below to be set-aside. In support of his contention that a regular first appeal cannot be dismissed *inlimine*, learned counsel for the petitioner placed reliance on the judgments reported as "PLD 1973 SC 1, 2002 CLC 969, 1990 CLC 1887 and 1985 CLC 2824". The other judgments relied upon by the learned counsel for the petitioner were reported as "2018 CLC 1227, 2010 CLC 120, 2017 YLR 1492, 2015 CLC 1084, 2019 CLC 901 and 2016 MLD 143".

4. I have heard the learned counsel for the petitioner and perused the record with his able assistance.

5. The record shows that on 24.07.2017, respondents 1 and 2 filed an appeal/application before the Court of the Deputy Commissioner, Islamabad with respect to an inquiry regarding mutation No.2567 attested on 09.03.1999. The proceedings pursuant to the said appeal/application prompted the petitioner to file a suit for declaration and permanent injunction before the learned Civil Court on 20.04.2018.

6. In the said suit, the petitioner had prayed for a declaration to the effect that the respondent No.1 and 2's acts of filing false and frivolous application against the petitioner after lapse of eighteen years were illegal and unlawful. Furthermore, the petitioner had prayed for permanent injunction restraining the said respondents from taking any action in any manner, whatsoever, against the petitioner on the basis of the said respondents' application for the cancellation of mutation No.2567, dated 22.03.1999.

7. Defendant No.2 in the said suit filed an application under Order VII, Rule 11 C.P.C. praying for the rejection of the plaint. Vide order and decree dated 23.05.2019, the learned Civil Court allowed the said application and rejected the plaint in the petitioner's suit. The petitioner's appeal against the said order and decree passed by the learned Civil Court was also dismissed by the learned Appellate Court.

8. After going through the concurrent orders and decrees, passed by the learned Courts below, I do not find any jurisdictional infirmity so as to warrant interference therein. The proceedings pursuant to respondents No.1 & 2's appeal/application before the Deputy Commissioner, Islamabad are still pending. It remains to be seen as to what the outcome of the said proceedings would be. There is nothing preventing the petitioner to contest the said appeal/application. Nothing convincing was stated as to whether the proceedings before the Deputy Commissioner, Islamabad were without jurisdiction or *non-est*.

9. In view of the above, I do not find any merit in this revision petition, which is accordingly dismissed with no order as to costs.

(MIANGUL HASSAN AURANGZEB)  
JUDGE