

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD. **JUDICIAL DEPARTMENT.**

Writ Petition No. 25/2021

Muhammad Azeem & others.

Versus

Waqas Younas & others.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
(01)	07.01.2021	Chaudhry Muhammad Nisar, Advocate for the petitioners.

The petitioners are aggrieved by rejection of application under Order VII Rule 11 CPC dated 21.12.2020.

2. Learned counsel for the petitioners states that the petitioners filed a suit in 2009 in which predecessor in interest of respondents No.1 & 2 was party; respondents No.1 & 2 filed an application under Order I Rule 10 CPC to be impleaded as party in the said suit, which was dismissed and the order of dismissal of said application was challenged through a revision petition, which was also dismissed by the learned appellate Court vide order dated 06.10.2017. The dismissal order has attained finality as it has never been challenged further. However, subsequently, respondents No.1 & 2 filed a fresh suit in relation to the same subject matter, wherein the petitioners filed application under VII Rule 11 CPC on the ground that the suit is barred by law. This application was dismissed vide impugned order dated 21.12.2020. Learned counsel for the petitioners relies on the judgment reported as "Mushtaq Ahmed Vs. Nasrullah Khan" (2001 MLD 1062), "M/S New Rahat Engineering

Works Vs. National Bank of Pakistan & another” (2003 CLD 382), “I.C.I.C. Vs. Mian Rafique Saigal & others” (PLD 1996 Lahore 528) and “Abdul Majeed Vs. Abdul Ghafoor Khan” (PLD 1982 SC 1946) and submits the Hon’ble Supreme Court has held that the principle of res-judicata is

attracted even where an interlocutory application is involved.

3. Issue notice to respondents No. 1 to 5, who shall be free to file any pleadings for the assistance of the Court within a period of two weeks but not later than 21.01.2021, with an advance copy to be shared with the petitioner’s counsel, who may file rejoinder, if so desired, within a period of one week thereafter.

4. Re-list on 28.01.2021.

C.M. No.01/2021

Notice.

C.M. No.02/2021

Exemption sought for is allowed, subject to all just and legal exceptions.

**(BABAR SATTAR)
JUDGE**