

**ORDER SHEET.**

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

**C.R. No.241/2019**

Faisal Jamali

*versus*

Syed Hashim Jawad Gillani & another

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	20.06.2019	Mr. Muhammad Wajid Hussain Mughal, Advocate for petitioner.

The petitioner through the captioned civil revision impugns order dated 13.06.2019 of the Civil Judge 1st class, (East), Islamabad, whereby application filed by the petitioner under Section 114 read with Section 151 CPC for recalling of order dated 11.04.2015 has been dismissed.

2. Learned counsel for petitioner contends that the learned Trial Court has not considered the true intent of the law while passing impugned order dated 11.04.2015, which is illegal and has been passed without application of judicial mind; that the suits are entirely different in its relief and nature but the learned Trial Court has not considered the facts and nature of its relief while passing order dated 11.04.2015 and stayed the civil suit; that the petitioner has filed review application in the learned Trial Court to review the said order of stay of proceedings under Section 10 CPC in order to decide the matter along with the connected suits.

3. Arguments heard, record perused.
4. Perusal of record reveals that the application for review in terms of Section 114 CPC has been filed against the order dated 11.04.2015, whereby the subsequent suit has been stayed and at present the suit titled Syed Hashim Jawad Gillani vs. Mst. Sheherzade Jamali, etc. is at final stages, whereas the right to produce evidence of present petitioner has been closed vide order dated 20.04.2019, though both the parties have assailed the said order before the Islamabad High Court in by filing C.R. No.12/2019 and C.R. No.170/2019. Similarly, it has further been observed that the review application filed by the petitioner against the order dated 11.04.2015 is an afterthought, which was not filed at its earlier stage in the year 2015, rather the petitioner kept awaiting for reasons best known to him and as such, no explanation has been put forwarded for such a delayed action.
5. The question in terms of Section 10 CPC has been considered by the learned Trial Court while passing the said order and the analogy taken by the learned Trial Court at that very stage is only on the ground that matter in issue in that suit is also directly and substantially in issue in a previously instituted suit between the same parties and as such principle of *res subjudice* has rightly been applied at that time. The propriety of the said order could not be challenged in terms of Section 114 CPC at this belated stage, even otherwise, filing of application in terms

of Section 114 CPC for review of said order is to be considered an afterthought to create a ground not legally permissible.

6. In view of above discussion, the instant civil revision is not competent as no illegality has been observed in the order impugned before this Court, therefore, the same is hereby **DISMISSED** *in limine* for being not maintainable.

(MOHSIN AKHTAR KAYANI)  
JUDGE

Khalid Z.