

ORDER SHEET
ISLAMABAD HIGH COURT
ISLAMABAD

Civil Revision No.331/2019

Raja Muhammad Riaz
VERSUS
Muhammad Ilyas Satti, etc

S.No. of order/ Proceeding	Date of hearing	Order with signature of Judge, and that of parties or counsel, where necessary.
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23.08.2019. Mr.Muhammad Riaz Satti, Advocate for Petitioner.

Through this Civil Revision, the Petitioner has assailed the order dated 01.7.2019 passed by Civil Judge-East, Islamabad whereby his application under Order 1 Rule 10 CPC for impleadment of Ch.Muzammil Bhatti, Hussain Ajiz and Atiq Ahmed as defendants in the suit has been rejected.

2. Learned counsel for the petitioner, inter alia, contends that the Petitioner is plaintiff and filed suit for specific performance of agreement dated 15.11.2010 which is pending before the Civil Court. He further contends that it has come to the knowledge of the petitioner that some portion of the suit land was transferred prior to the filing of the suit and land to the extent of 10 marlas was transferred after filing of the suit, therefore, subsequent vendee has to be impleaded in the civil suit and if permission is not granted petitioner shall suffer an irreparable loss.

3. Arguments heard. Record perused..

4. Perusal of record reveals that suit for specific performance of agreement dated 15.11.2010 was filed on 20.7.2011 through Civil Suit No.193 before the Islamabad High Court, however, due to change in the pecuniary jurisdiction of the High Court, the matter was transferred to the Civil Court. It has also been observed that petitioner has initially filed application under Order VI Rule 17 CPC for amendment in the plaint by inclusion of facts narrated

in the present application under Order 1 Rule 10 CPC, however, earlier application for amendment in the plaint was dismissed by the trial Court and said order was upheld upto the Apex Court, as such the petitioner has filed second application with different provision in terms of Order 1 Rule 10 CPC for almost similar relief. It has further been observed that suit for specific performance is still pending before the trial Court for recording evidence of petitioner/plaintiff and as such no material progress has been made in the past 09 years. Further petitioner has failed to explain his position as well as factors which have been resulted into delay of conclusion of trial. Learned counsel for the petitioner has been confronted regarding application of *lis-pendence* whereby learned counsel for the petitioner/plaintiff has conceded the legal proposition that principle of *lis-pendence* is applicable in this case and further alienation of the suit land or portion of the suit land has no effect on the petitioner's case.

5. I have gone through the impugned order which has been passed after due care and caution by considering each and every aspect of provision under Order VI Rule 17 CPC whereby trial Court has rightly observed that no new fact has been established on record to file fresh application after dismissal of previous application till the Apex Court. This observation of the trial Court explains the conduct of the petitioner and he has rightly been burdened with cost of Rs.10,000/- by the trial Court.

6. Keeping in view the above, instant Civil Revision is misconceived and same stands dismissed.

7. Before parting with this order it has been observed that suit for specific performance is pending before the trial Court

since 20.7.2011 and the order sheet reveals that the instant matter is pending before the Court of Miss.Samia Naureen Iqbal, Civil Judge Ist Class (east), Islamabad, therefore, learned trial Court seized with the matter is directed to conclude the trial of the Civil Suit before 31.12.2019 under intimation to this Court. No further adjournment shall be granted to the petitioner/plaintiff side unnecessarily.

(MOHSIN AKHTAR KAYANI)
JUDGE

M.S.ZAKI