

IN THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

PRESENT:

Mr. Justice Irfan Saadat Khan

Mr. Justice Shahid Bilal Hassan

CPLA NO.251-Q OF 2024

(Against the judgment dated 26.07.2024 of the High Court of Balochistan, Quetta, passed in C.P. No.73/2023)

Mr. Abdul Aziz & other

... .. Petitioner

Versus

All Pakistan Clerks Association through its Zilai President Manzoor Ahmed and others

... .. Respondents

For the Petitioner : Mr. Rehmat Ullah Barech, ASC
(through video link from Quetta)

For the Respondent : N.R.

Date of hearing : 14.01.2025

ORDER

IRFAN SAADAT KHAN, J.- An application for impleading the respondent No.1 as a proper and necessary party under order I Rule 10 CPC (petitioner/intervener) was filed on 10.03.2021 before the trial Court in suit No.40/2010. The said application was thereafter allowed vide order dated 07.12.2022. Against which an appeal was preferred by the present petitioner. The said appeal was however allowed by the Appellate Court vide order dated 27.12.2022. Thereafter a petition was filed before the High Court bearing CP No.73/2023 and the High Court vide impugned judgment dated 26.07.2024 upheld the order of the trial Court and set aside the order of the appellate Court by observing that "admittedly both the Mouza Tegh and Sunni are lying adjacent to each other and the description mentioned in the suit is admittedly of the petitioner/intervener allotted land"; after finding the respondent No.1 to be a proper and necessary party to be impleaded in the said suit.

2. The counsel appearing for the present petitioner stated that the respondents have no right to become a party in the instant suit as no relief has been sought against them in the said suit and hence, they are neither a necessary

nor a proper party. He further stated that the respondents have no interest in the suit property and their only claim was that their land is situated in the adjacent area.

3. We have heard the learned counsel at some length and have perused the record. We have found that the trial Court and the High Court after examining the matter in detail and the record have found that the present respondent No.1 is a proper and necessary party as their land is lying adjacent to the land of the petitioner and the outcome of the suit, if decided in favour of the present petitioner without hearing them, could adversely effect their rights in respect of the properties claimed by them. We are of the view that the observations made by the High Court and that of the trial Court are based on proper appreciation of the facts of the case as after threshing out the matter in detail they have found out that the respondents are a proper and necessary party. It is a settled preposition of law that while dealing with the applications under order I Rule 10 the Court has to exercise its discretion in a liberal manner rather than adopting a narrow or pedantic approach, especially when any party is likely to be affected by any judgment in a proceeding and whose presence would enable the Court to effectively adjudicate the matter in accordance with the law¹. We, therefore, find no reason to interfere in the impugned judgment passed by the High Court which, is hereby upheld. The present CPLA is found to be without any merit, the same therefore stands dismissed and leave refused.

Judge

Judge

Islamabad

14.01.2025

'APPROVED FOR REPORTING'

Muhammad Asif/*

¹ 2014 SCMR 531 (Syntron Limited Vs. Huma Ijaz and others)

2023 SCMR 755 (Province of the Punjab through Deputy Commissioner/District Collector, Rawalpindi and others Vs. Muhammad Akram and others)

2011 SCMR 1591 (Muhammad Arif and others Vs. District & Sessions Judge, Sialkot and others)

2013 SCMR 602 (Vidur Impex and Traders (Pvt.) Ltd. and others Vs. Tosh Apartments (Pvt) Ltd. & others)

[Supreme Court of India]