

[Supreme Court of Pakistan]

Present: Syed Mansoor Ali Shah, Naeem Akhtar Afghan and Shahid Bilal Hassan, JJ**ASMA HALEEM---Petitioner****Versus****ABDUL HASEEB CHAUDHRY and others---Respondents**

C.P.L.A. No. 3300 of 2024, decided on 30th July, 2024.

(Against the judgment of Islamabad High Court, Islamabad dated 02.07.2024 passed in C.R. No. 111 of 2023).

Partition Act (IV of 1893)---

---S.4---Supreme Court Rules, 1980, O. XXVIII, R.3---Specific Relief Act (I of 1877), Ss. 8 & 54---Constitution of Pakistan, Art. 185 (3)---Joint dwelling housing, partition of---Frivolous and vexatious cases---Imposing of costs---Petitioner/plaintiff filed suit for partition of suit house and Trial Court after passing preliminary decree appointed Court auctioneer to auction the property--Petitioner/plaintiff objected to auction report submitted by Court auctioneer, which objections were turned down by Trial Court but Lower Appellate Court allowed the same---High Court in exercise of revisional jurisdiction set aside the order passed by Lower Appellate Court---Validity--Petition filed by petitioner/plaintiff before Supreme Court was frivolous and vexatious and process of Court was abused by petitioner/plaintiff just to pressurize the other side and delay the matter on one pretext or the other, depriving her siblings and mother from lawful auction of such property---Supreme Court declined to interfere in judgment passed by High Court and to curb practice of instituting frivolous and vexatious cases imposed costs under Order XXVII, Rule 3 of Supreme Court Rules, 1980, which had laid down foundation for expeditious justice and to promote smart legal system, enhancing access to justice by entertaining genuine claims---Petition for leave to appeal was dismissed and leave was refused.

Qazi Naveed ul Islam v. District Judge, Gujrat PLD 2023 SC 298 rel.

Abdul Wahid Qureshi and Tariq Aziz, Advocate-on-Record for Petitioner.

Respondents not represented.

Date of hearing: 30th July, 2024.

ORDER

SYED MANSOOR ALI SHAH, J.---Brief facts of the case are that the petitioner filed a suit for partition, permanent, possession, permanent and mandatory injunction regarding the built-up property constructed house two floors over land measuring 1 Kanal numbered as Plot No. 7-M, Raja Akhtar Road, Korang Valley, Shahpur, Barakahu, Islamabad. The suit property was owned by the father of the parties and after necessary proceedings, the trial court issued a preliminary decree vide order dated 13.01.2020 and appointed a local commission. Subsequently, reserve price of the suit property was fixed by the trial court which was objected by the petitioner on 16.03.2020. Thereafter, a court auctioneer was appointed by the trial court who conducted the auction proceedings and submitted his final report to the court on 18.03.2023 which was also objected by the petitioner. The said objections were turned down by the trial court vide order dated 12.04.2023 against which the petitioner preferred an appeal which was allowed vide order dated 08.07.2023. A revision petition was filed by the respondent No. 7 before the Islamabad High Court, Islamabad which was allowed vide judgment dated 02.07.2024 ("impugned judgment"). Hence, the instant petition for leave to appeal.

2. We have heard the learned counsel for the petitioner at some length and have gone through the impugned judgment of the High Court, examined the law on the subject and the record of the case. We have not been able to take any exception to the impugned judgment and are of the view that the present petition is completely frivolous and vexatious and the process of the court has been abused by the petitioner just to pressurize the other side and delay the matter on one pretext or the other, thereby depriving her siblings and mother from the lawful auction of the said suit property. Therefore, it does not warrant any interference.

3. Before parting with this Order, it is significant to highlight that according to the statistics provided by the Law and Justice Commission of Pakistan, there are about 2.2 million (2,255,295) cases pending before all courts in the country.¹ Such frivolous, vexatious and speculative litigation unduly burdens the courts giving artificial rise to pendency of cases which in turn clogs the justice system and delays the resolution of genuine disputes. Such litigation is required to be rooted out of the system and strongly discouraged and one of the ways to curb such practice of instituting frivolous and vexatious cases is by imposing of costs under Order XXVIII, Rule 3 of the Supreme

Court Rules, 1980 which lay the foundation for expeditious justice and promote a smart legal system, enhancing access to justice by entertaining genuine claims.² In view of the aforesaid, leave is, therefore, declined and this petition is dismissed with costs of Rs. 50,000/- to be paid to the respondents and in case of its failure, the same shall be recoverable as a money decree. Copy of this Order be dispatched to the respondents for information.

MH/A-28/SC

Petition dismissed.