

JUDGMENT SHEET
IN THE HIGH COURT OF SINDH, HYDERBAD CIRCUIT

Before:
Mr. Justice Miran Muhammad Shah

Revision Application No. 110 of 2011

Mst. Aalam Khatoon and others

Versus

Shafique Ahmed and others

For the Applicants: Mr. Abdul Ghafoor Hakro, Advocate.

For the Respondents Nos. 1 and 2: Mr. Mumtaz Ali Soomro, Advocate.

For the Respondents Nos. 3 to 5: None.

Date of Hearing: 18 March 2025

Date of Judgment: 21 April 2025

JUDGMENT

Miran Muhammad Shah, J: The Applicants have appealed the Judgment dated 10.02.2011 and Decree dated 11.02.2011 ("impugned Judgment") passed by the learned Ist Additional District Judge, Dadu, in Civil Appeal No. 27 of 2009 titled *Shafique Ahmed and another v Province of Sindh and others*, whereby the learned Additional District Judge allowed the said civil appeal and set-aside the Judgment dated 30.09.2009 and Decree dated 07.10.2009 ("Trial Court's Judgment") passed by the learned Senior Civil Judge, Dadu, in F.C. Suit No. 11 of 2008 titled *Shafique Ahmed and another v Province of Sindh and others* by which the learned Senior Civil Judge had dismissed the said suit.

2. The facts of the case are that the Respondents Nos. 1 and 2 instituted the aforementioned suit against the Applicants and the Respondents Nos. 3 to 5 before the learned Senior Civil Judge, Dadu, for declaration, cancellation and permanent injunction. Their plea in the said suit was as follows:

- (i) A plot of land, being City Survey No. 900/107-B, situated in Ward-A, Gharibabad Mohalla, Dadu, admeasuring 199-01 sq. yds. originally belonged to late Muhammad Sadik, the

grandfather of the Respondents Nos. 1 and 2. In his favour, an Entry dated 21.02.1970 was made in the City Survey Record, and he expired on 20.05.1981;

- (ii) After his death, late Muhammad Sadik left behind the said plot and a share measuring 1472 Sq. Ft. ("**suit property**") was inherited by Haji Khan, the father of the Respondents Nos. 1 and 2;
- (iii) During his lifetime, the said Haji Khan got two rooms with veranda, kitchen etc., with *pakka* bricks constructed on the suit property on his own expense, and, after the death of Haji Khan, the Respondents Nos. 1 and 2 are residing in the suit property with their family;
- (iv) The Respondent Nos. 1 and 2's uncle, Azizullah, died on 26.04.2007 and left behind his widow Mst. Aalam Khan (Applicant No. 1);
- (v) One month after the death of the said Azizullah, the Applicant No. 1 and the Applicant No. 2 (stepbrother of late Azizullah) started claiming that the suit property belonged to Azizullah and the Respondents Nos. 1 and 2 should vacate the same, otherwise, they would use illegal means to have them removed;
- (vi) Due to this, the Respondents Nos. 1 and 2 approached the Respondent No. 4 (Mukhtiarkar/City Survey Officer, Dadu) who called a report from the Respondent No. 5 (City Surveyor, Dadu). The Respondent No. 5 conducted an impartial enquiry and submitted a report stating that fraud has been committed by late Azizullah by interpolating the City Survey Records and showing that the suit property has been gifted by late Haji Khan to him. The Respondent No. 5 also stated that there is no statement of late Haji Khan or any other person proving the gift in favour of late Azizullah;
- (vii) The Respondents Nos. 1 and 2 sought the following reliefs in their suit:

"(A) That the Honourable court may kindly be pleased to decree the suit of the plaintiffs

declaring that the plaintiffs are lawful owners of suit property bearing City Survey No. 900/107-B which they have inherited from their late father Haji Khan Mallah and are in peaceful possession and enjoyment of the same till to date.

(B) That this Honourable court may also be pleased to declare that the defendants Nos: 4 and 5, have got no right, title or interest over the suit property and the entry in respect of gift of the suit property belonging to Haji Khan, the father of the plaintiffs, in favour of Azizullah Malah is fraudulent, fictitious and managed one.

(C) That this Honourable court may further be pleased to cancel the fraudulent, false, managed and fictitious entry in the record of City Survey in favour of Azizullah and that the defendant Nos: 2 and 3 be directed to put such notes in the relevant record.

(D) That this Honourable court be further pleased to grant permanent injunction against the defendants restraining and preventing them from interfering with the peaceful possession and enjoyment of the plaintiffs over the suit property or to dispossess the plaintiffs from it by illegal means with the help of police etc.

(E) That the costs be awarded to the plaintiffs alongwith any other relief this Honourable court may deem fit and property under the circumstances of the case may also be granted to the plaintiffs."

3. Against the suit, the Applicants filed their Written Statement in which they denied the case pleaded by the Respondents Nos. 1 and 2 and raised the following defence:

- (i) Deceased Muhammad Sadik did not have only one legal heir but, in fact, he left behind the following five legal heirs: (1) Haji Khan (son); (2) Azizullah (son); (3) Ghulam Rasool (son); (4) Wazeer Hussain (son); and (v) Rajib Ali (son). All these legal heirs inherited the suit property in equal shares;
- (ii) Late Azizullah was a bank employee who gave money to his brother, late Haji Khan, for the marriages of his daughter. Consequently, late Haji Khan executed 'gift deed' in favour of late Azizullah in respect of the suit property. Later on, late Azizullah also got a loan in his name by mortgaging the same property and constructed a residential house in the suit property at his expense;

- (iii) Late Azizullah was issueless and resided in the suit property along with his wife (the Applicant No. 1) and he had also allowed the Respondents Nos. 1 and 2 to reside in the suit property being his nephews;
- (iv) After the death of late Azizullah, the Applicants and one Rajab, another brother of late Azizullah, were residing in the suit property. The name of Rajab has not been disclosed by the Respondents Nos. 1 and 2 intentionally;
- (v) After the death of late Azizullah, the Respondents Nos. 1 and 2 forcibly drove out the Applicant No. 1 out of the house of her late husband. In this respect, she also lodged an FIR against the Respondents Nos. 1 and 2. The Respondents Nos. 1 and 2 have no claim, title or right in the suit property as late Haji Khan, their father, had already expired prior to the death of late Azizullah;
- (vi) The Plaintiffs have no cause of action;
- (vii) The suit is insufficiently valued;
- (viii) The Respondents Nos. 1 and 2 have not come to the learned Trial Court with clean hands;
- (ix) The suit is liable to be dismissed with special costs.

4. From the divergent pleadings of the parties, the learned Senior Civil Judge framed the following eight (8) issues:

- (1) Whether the suit is maintainable?
- (2) Whether the plaintiffs inherited the suit plot admeasuring 1472 Sq. ft: CS No. 900/107-B situated in Gharibabad Muhalla Dadu?
- (3) Whether defendant No: 4 is only surviving legal heir of late Azizullah being his widow, and Azizullah was uncle of plaintiff?
- (4) Whether late Haji Khan had not gifted the suit plot to his brother Azizullah in his lifetime and late Azizullah had

committed fraud, prepared false and bogus gift deed in his favour?

- (5) Whether entry in the record of city survey in respect of suit plot/house in favour of Azizullah is liable to be cancelled?
- (6) Whether the defendant No: 4 and 5 had any right or title over suit plot/house?
- (7) Whether the plaintiffs are entitled for relief(s) claimed?
- (8) What should the decree be?

5. At the trial, the Respondents Nos. 1 and 2 examined the following witnesses: (i) **PW-1** Shafique Ahmed (Respondent/Plaintiff No. 1); (ii) **PW-2** Sawan son of Ghulam Hussain (Witness); and (iii) **PW-3** Muhammad Buxial son of Khamiso (Witness). On the other hand, the Applicants examined the following witnesses: (i) **DW-1** Wazeer Hussain (Applicant No. 2); (ii) **DW-2** Ayyaz son of Muhammad Khan (Witness); and **DW-3** Alam Khatoon (Applicant No. 1).

6. By its aforementioned Judgment and Decree, the learned Senior Civil Judge dismissed the suit of the Respondents Nos. 1 and 2. Against the Trial Court's Judgment and Decree, the Respondents Nos. 1 and 2 filed the aforementioned Civil Appeal before the learned Additional District Judge, who framed three (3) points for determination, passed the impugned Judgment and Decree and allowed the appeal by holding that the suit property was not validly, if ever, gifted by late Haji Khan to late Azizullah. The relevant findings of the learned Additional District Judge are in paragraph 16 of the impugned Judgment, which reads:

"16. For the reasons given in preceding paragraph No: 10 to 15 I am clear in my mind that no valid gift existed in favour of late Azizullah, the husband of respondent No. 4/defendant No. 4 having made by late Haji Khan, the father of appellants/plaintiffs and accordingly the **point No. 1** is replied **in negative.**"

(emphasis in original)

7. Against the impugned Judgment, the Applicants have filed the present civil revision, in which their grounds are that the impugned Judgment and Decree is contrary to the law and is liable to be set-aside; that the learned Additional District Judge has failed to appreciate that the

suit property was gifted on 22.10.1987 to late Azizullah by late Haji Khan who expired and left no property to be inherited by the Respondents Nos. 1 and 2; that the Respondents Nos. 1 and 2 had no legal character to institute the aforementioned suit which was barred under Sections 39, 42 and 54 of the Specific Relief Act, 1877, and was time-barred; that the learned Additional District Judge did not appreciate that late Haji Khan did not challenge the gift during his lifetime, and so, the suit was not maintainable; that the learned Additional District Judge had wrongly considered the Order of Mukhtiarkar/City Survey Officer, Dadu, which was not a part of the evidence and which, even otherwise, is a forged and fabricated document; that the learned Additional District Judge has not considered the evidence recorded by the parties in its true context; that the learned Additional District Judge has not considered the Mortgage Deed dated 24.11.1987 (**Exh-28/C**) and Redemption Deed dated 07.05.2002 (**Exh-28/D**) supported by **Exh-28/A** which shows that the suit property was, in fact, gifted by late Haji Khan to late Azizullah and hence the impugned Judgment and Decree are based on misreading of evidence; that as per record the suit property was gifted by late Haji Khan to late Azizullah on 22.10.1987 and he expired on 22.04.2001 while the suit was filed even seven (7) years after his death on 28.03.2008; that the learned Additional District Judge has erroneously assumed that the gift was an exchange between late Haji Khan and late Azizullah as no witness has made such a statement.

8. Against the Civil Revision, the Respondents Nos. 1 and 2 filed their Objections through their learned Counsel in which they have defended the findings of the learned Additional District Judge for similar reasons. Their case is that no valid gift, if any at all, existed in favour of late Azizullah and that the evidence of the Applicants does not prove their allegations. In support, learned Counsel for the Respondents Nos. 1 and 2 also relied upon *Faqir Ali v Sakina Bibi* (**PLD 2022 SC 85**), *Farhan Aslam v Mst. Nuzba Shaheen* (**2021 SCMR 179**), *Peer Bux v Mst. Khanzadi* (**2016 SCMR 1417**), *Baja v Mst. Bakhan* (**2015 SCMR 1704**) *Rab Nawaz v Ghulam Rasul* (**2014 SCMR 1181**), *Mahmooda Bibi v Muhammad Khurshid Alem* (**2025 YLR 164 (Lahore)**), *Ghulam Raza v Mureed Abbas* (**2023 CLC 122 (Lahore)**), *Mahmood Ali v Abdul Latif* (**2006 YLR 1090 (Lahore)**) and *Bashir v Noor Hassan* (**2001 CLC 1650 (Lahore)**).

9. Heard. Perused.

10. To summarise the entire case, the Applicants claim their entitlement to the suit property on the basis of an oral gift (*hiba*) allegedly executed on 22.10.1987 as noted in the City Survey Entry Extract produced in evidence at **Exh-28/A** before the learned Senior Civil Judge. In the said Entry, there is a small note in the third column, which reads:

“By Gift from Haji Khan As per Stts: and C.S.O.
order dt: 22/x/87”

It appears that the said Entry has been made on the basis of a statement (apparently by late Haji Khan) and an order by the City Survey Officer/Mukhtiarkar (Respondent No. 4). The said entry was made in the year 1987 (which is not disputed in the Plaint) and the Respondents Nos. 1 and 2 filed their suit in the year 2008.

11. The sole document on which the Respondents Nos. 1 and 2 relied to support their case of fraud against late Azizullah was an alleged Report by the Respondent No. 5 which was filed as an annexure to the Plaint of their suit. The said document was neither exhibited in evidence nor its author or anyone else from the office of the Respondent No. 5 was produced to verify or authenticate the said document. Thus, no opportunity was provided to the Applicants during evidence to confront the said document or the official witnesses who supposedly issued the same.

12. Without the exhibition of the Respondent No. 5's report in evidence, and proper recording of evidence on the said document, there are so many possibilities which must be confronted. The said report could be an authentic one, or it could be *bogus* and managed; I am unable to comment on that, but there is one thing for sure: No court can ascertain anything by relying upon the said report because no evidence thereon has been recorded.

13. Any document which is not produced in evidence by a party cannot be considered by a Court in deciding a case. This was held by the Supreme Court in the case of *Federation of Pakistan and another v Jaffar Khan and others* (**PLD 2010 SC 604**) (“Jaffar Khan”), in which it has been held that:

“12. The document which has not been brought on record through witnesses and has not duly exhibited, cannot be taken into consideration by the Court. A party having produced no evidence on its own would have to abide by it, and be bound by such evidence as had come on record...”

A similar observation is made in *State Life Insurance Corporation of Pakistan v Javaid Iqbal* (2011 SCMR 1013), the relevant portion of which reads:

“We are not convinced that, such document, which has not been produced and proved in evidence but only ‘marked’, can be taken into account by the Courts as a legal evidence of a fact...”

14. The failure of the Respondents Nos. 1 and 2 to produce, or make efforts to have produced through official witnesses, the Report of the Respondent No. 5 must be looked at in light of Article 129 of the *Qanun-e-Shahadat* Order, 1984 (“1984 Order”). The said Article gives rise to a legal presumption, that, if a party withholds or fails to bring any essential evidence, then that evidence must have gone against it. Of relevance here is Illustration (g) in Article 129 of the 1984 Order, which reads:

“129. Court may presume existence of certain facts: The Court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case.

Illustrations

The Court may presume---

...

(g) that evidence which could be and is not produced would, if produced, be unfavourable to the person who withholds it;”

(Emphasis in original)

15. The same Article creates a caveat to the general presumptions mentioned in it, as it provides:

“But the Court shall also have regard to such facts as the following, in considering whether such maxims do or do not apply to the particular case before it;

...

as to illustration (g): a man refuses to produce a document which would bear on a contract of small importance on which he is sued but which

might also injure the feelings and reputation of his family..."

Thus, whether or not to make such a presumption ultimately comes down to the facts and circumstances of every case, and a Court must apply its sound judicial discretion in doing so.

16. The Respondent No. 5's alleged report was the sole document on which the entire cause of action of the Respondents Nos. 1 and 2 to institute their suit stands, and it is the only document through which the Respondents Nos. 1 and 2 could have established fraud against the Applicants. Yet, the Respondents Nos. 1 and 2 did not make efforts in having it produced, or at least producing its certified copy to allow the Applicants to confront/rebut the same in cross-examination. And, to state the obvious, I do not see any harm to the image or reputation of the Respondents Nos. 1 and 2 if the said document was produced. Why, then, should a negative presumption not be made?

17. It is way too easy to allege fraud, but it takes convincing evidence to prove the same, which is a difficult and tedious task to accomplish. To adjudicate fairly based on the available evidence is the only way a Court can decide a case and provide justice, and proving or not proving their case depends on the evidence a party records before a Court. Judicial proceedings are a serious matter, and when a party seeks to initiate the same, it is only natural to expect that that party will make strenuous efforts to bring forward its case through their best evidence. This, in my view, is precisely the reason Article 129(g) of the 1984 Order exists.

18. Based on this, it is reasonable to conclude that the Respondent No. 5's report could not be used by the learned Appellate Court to hold as follows in paragraph 15 of the impugned Judgment:

"It is clear that the Mukhtiarkar/City Survey Officer who is custodian of property in question has also observed that the said gift is forged and such observation can not be rejected straight away."

I believe the learned Additional District Judge did not have the authority to utilise the Respondent No. 5's unexhibited report to reach the above conclusion and that it exercised a jurisdiction not vested in it in doing so.

19. Now that the sole document on which the case of the Respondents Nos. 1 and 2 for fraud stands is held to be beyond consideration, there is

the bar of limitation which comes in their way. It is admitted on record that late Azizullah, the alleged donee, died on 26.04.2007 whereas late Haji Khan died on 22.04.2001 and the disputed Gift Mutation was kept on 22.10.1987. From the date of the Gift Mutation in the City Survey Records until the institution of the suit in 2008, there is a period of twenty-one (21) years. Under Article 91 of the Limitation Act, 1908 ("1908 Act"), a limitation period of three (3) years is provided for cancellation, which, if excluded, means that the suit of the Plaintiffs was barred by almost eighteen (18) years. I may observe that it is not the case of the Respondents Nos. 1 and 2 that the disputed Gift Mutation was kept in back-dates after the death of late Haji Khan; instead, they allege in paragraph 7 of their Complaint that:

"7. ...he had stated in his report that a fraud has been committed by late Azizullah upon his brother Haji Khan, whereby mentioning in the City Survey that late Haji Khan has gifted the suit property to him (Azizullah)."

20. Similarly, late Haji Khan stayed alive from 1987 to 2001, which comes to about fourteen (14) years, during the existence of the disputed Gift Mutation in the City Survey Records. He, however, is not shown to have challenged the said mutation during his lifetime by instituting a civil suit against late Azizullah who was also alive at the relevant point in time. Therefore, in my view the conduct of late Haji Khan towards the disputed gift mutation in his lifetime amounts to acquiescence and would initiate *estoppel* against his legal heirs.

21. The acquiescence of late Haji Khan is also established from the fact, again during his lifetime, late Azizullah is shown to have entered into a registered Mortgage Deed (**Exh-28/C**) with the National Bank of Pakistan in the year 1987. The same was confronted by the Respondents Nos. 1 and 2 during the cross-examination of the Applicant No. 1 (Mst. Aalam Khatoon) by alleging that late Azizullah obtained the same through usage of his contacts. However, yet again, it is not the case of the Respondents Nos. 1 and 2 that the same was prepared in back-dates or after the death of late Haji Khan.

22. If Haji Khan was the owner of the suit property, then his conduct concerning it was really doubtful, for the reason that no actual owner permits another person to have entries and mortgage deeds prepared in respect of his or her property. It is also strange that so much was going on

with Haji Khan's legal entitlement over the suit property, but he did nothing as an owner to protect his rights and, instead of him, his legal heirs woke up after such a long time. Astonishing as it may be, it appears very clearly that late Azizullah was obtaining loans in his name from banks by providing the suit property as collateral and also having entries placed in city survey records. In essence, therefore, late Azizullah was acting as an owner of the suit property all this time but late Haji Khan did not raise his voice, which amounts to acquiescence. It is hard to believe, even if pleaded, that late Haji Khan did not know of the actions of his own real brother who was apparently living with him in the suit property.

23. A similar case came up before the Supreme Court of Pakistan in *Abdul Haq v Mst. Surrya Begum* (2002 SCMR 1330), and it was held that:

"11. Atta Muhammad was deprived of right to inherit the property as a consequence of mutation in dispute but he did not challenge the same during his lifetime. The petitioners claimed the property through Atta Muhammad as his heirs who filed the suit as late in 1979 about nine years after the sanction of mutation which had already been given effect to in the record of rights. **The petitioners, therefore, had no locus standi to challenge the mutation independently, for Atta Muhammad through whom they claimed inheritance himself had not challenged the same during his lifetime.**"

(emphasis added)

24. Another case on a similar footing is *Mst. Grana through Legal Heirs v Sahib Kamala Bibi* (PLD 2014 SC 167), where the Supreme Court held that:

"7. It emerges from the afore discussed case-law that the law of limitation is not entirely to be ignored or brushed aside whenever property is claimed on the basis of inheritance. The conduct of such claimant may become relevant and material when the bar of limitation is pleaded by the adversary. A defendant may show that the plaintiff by his or her acts, overt or implicit, had demonstrated acquiescence in the defendant's title to the suit property thereby allowing him to deal with it as exclusive owner, for instance regularly and openly disposing of parts of the property or developing it at his own expense over a period of time within the knowledge of the plaintiff..."

25. The deaths of late Haji Khan and late Azizullah is especially relevant in the circumstances of the present case because of the nature of the deed (gift) that took place between them. The requirements of proving a gift—oral or written—are quite different from any other transactive business between two parties. This is because a gift can still be valid orally or in writing and it is not compulsorily registerable under the Registration Act, 1908 (although, with great emphasis all of the above is advised). This means that, in the event that a gift comes to be challenged before a Court, the best parties in the absence of a written instrument or registration of that instrument are the two parties directly concerned, namely the donor and the donee. A gift or *hiba* is defined in Imam Muslim's *Sahih al-Muslim*, Book 12, *Kitab al-Hibat* as follows:

"A Hiba is defined as the transfer of the possession of property, movable and immovable, from one person to the other willingly and without any reward. The one who makes this transfer is known as donor (Wahib), and the thing transferred is known as Mauhubah, and the one who is donated is known as Mauhub lahu (donee). The other words used in the language of the Shar'i'ah are Nihla or 'Atiyya.

The act of Hiba is not complete unless the donor surrenders the possession of the thing donated. Moreover, the declaration of donation should be in clear terms without any ambiguity (around them). This act of donation is based on the following hadith of the Holy Prophet (may peace be upon him): "Give presents to one another for this would increase your mutual love." This not only implies the legality of gifts, but the exhortation to give these to one another. There is perfect agreement amongst all the jurists that Hiba is valid in Islam.

The act of donation can be made verbally or in writing by any person capable of making a contract. A gift by a person involved in debt is invalid, and gift in death illness cannot take effect beyond one-third of the assets of the deceased after defraying all necessary expenses. The donation can be made to a living person and not to one who is dead.

The Shari'ah imposes certain restrictions on the property which is to be donated. In the first place, the property must be in existence at the time when the gift is given; hence the gift of oil in the sesame or of butter in the milk would not be valid. The property once given as a gift cannot be revoked except in some extraordinary

circumstances. The father is entitled to get back the donation given by him from his children if he finds it contrary to the laws and spirit of the Shari'ah. The right to revoke a gift is called Raj'. This act of revocation can be done with the decree of a competent court."

If the disputed gift took place between late Haji Khan and late Azizullah during their lifetime, then quite reasonably they both would have best known of the witnesses to the alleged gift. There are so many angles which cannot be adjudged through evidence because the main parties are dead. Thus, within the limited record and evidence produced, this is best that a court of law can do to accomplish the ends of the maxim *let justice be done though the heavens fall*.

26. The cause of action pleaded by the Respondents Nos. 1 and 2 also calls for some discussion. In paragraphs 6 and 8 of their suit, they pleaded as follows:

"6. That after one month of the death of late Azizullah, the defendant No: 5 who is step brother of late Azizullah and defendant No: 4 started claiming that the suit property belonged to late Azizullah and the plaintiffs should vacate the suit property...

7. ...

8. That the cause of action has arisen to the plaintiffs for filing the present suit in the month of May, 2007, **when the defendants Nos. 4 and 5 started claiming the suit property of late Azizullah which has been inherited by them and issued threats of forcible dispossession of the plaintiffs through illegal means with the help of police and other their associates which is continuing on from time to time till to date.**"

(emphasis added)

On the other hand, **PW-1** Shafique Ahmed (Respondent No. 1) deposed in his examination-in-chief that:

"We came in knowledge about suit property after the death of my uncle Azizullah **when the widow of Azizullah and her brother** directed us to leave the suit property."

(emphasis added)

There is a noticeable change of stories in the pleadings of the Respondents Nos. 1 and 2 and the evidence recorded by **PW-1** Shafique Ahmed in the

manner that their suit alleges threats by the Applicants Nos. 1 and 2, who were the Defendants Nos. 4 and 5 in the suit, while the Respondent No. 1's examination in chief suggests that those threats were issued by the Applicant No. 1 and her brother, whose name is not known. It may either be a contradiction or an improvement, but in either case, it does shake the foundation of the case presented by the Respondents Nos. 1 and 2, namely its cause of action.

27. It is a well-settled principle of law that the burden of proof lies on the shoulders of the one who alleges. Therefore, it was for the Respondents Nos. 1 and 2 as plaintiffs to establish, firstly, that late Azizullah had committed fraud in the City Survey records, and, secondly, that based on the said fraud, their suit was covered by the exception to the limitation law, i.e. that no limitation runs against fraud. The Respondents Nos. 1 and 2, in my opinion, could not do so.

28. No court of law has the jurisdiction to pass an order which is wrong on law or facts. And I believe that the learned Additional District Judge acted erroneously and in a way which resulted in exercise of jurisdiction not vested in him, or alternatively, in exercising jurisdiction with material illegality and irregularity. As such, the impugned Judgment cannot be sustained.

29. For these reasons, I allow this revision application and set-aside the impugned Judgment and Decree passed by the learned Additional District Judge. Consequently, the Judgment and Decree passed by the learned Trial Court are restored and upheld, and the suit filed by the Respondents Nos. 1 and 2 stands dismissed. There is no order as to costs.

J U D G E