

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Civil Revision Application No. S-45 of 2021

Applicants : Through Mr. Pardeep Kumar M. Bhutani, Advocate
1. Talib Hussain
2. Allah Dino
3. Ghulam Hussain
4. Ghulam Shabir
5. Raaz Hussain
All sons of Nawab Shar

Respondents No.1 & 2 : Through Mr. Imdad Ali Mashori, Advocate
1. Syed Asad li Shah
son of Syed Peer Shah
2. Syed Pir Shah
son of Syed Hidayat Ali Shah

Official Respondents No.3 to 5 : Through Mr. Aftab Ahmed Bhutto, Assistant Advocate General, Sindh.

Date of Hearing : 01.09.2025

Date of Judgment : 15.09.2025

J U D G M E N T

Muhammad Saleem Jessar, J.- Through this Civil Revision Application filed under Section 115 of Civil Procedure Code, 1908, the applicants have challenged the Judgment and Decree, both dated 07.04.2021 passed by learned Additional District Judge-III (MCAC), Larkan, in Civil Appeal No.87/2020 whereby he maintained the judgment dated 17.08.2020 and decree dated 20.08.2020 passed by learned Senior Civil Judge-II, Larkana (the trial Court) vide FC Suit No.293/2016.

2. Briefly, the facts of the case are; that the applicants filed above said civil suit against the respondents/defendants for Declaration, Cancellation and Permanent Injunction stating therein that the plaintiffs are owners of the

agricultural land measuring an area of 0-32 ghuntas out of S. No.5 total area of 5-13 acres, situated in Deh Waleed, Tapo Dodai, Taluka and District Larkana and are in possession of suit land. They further stated that one Ghulam Ali Sangi filed Civil Revision Application No.06 of 2001 before Circuit Court, Larkana of this Court against them in which they appointed / nominated respondent/defendant No.1 Syed Asad Shah as their attorney to represent them in said case, vide General Power of Attorney registered at Serial No. 6287 dated 20.11.2014 at the Office of respondent/defendant No.4 viz. Sub-Registrar, Larkana. They further stated that respondent No.1 by misusing the power of attorney, sold out the suit land to his own father i.e. respondent / defendant No.2 and such sale deed was got registered at the Office of respondent No.4 vide Serial No.6288 dated 20.11.2014 without knowledge and consent of the applicants/plaintiffs. They further asserted in the plaint that said registered sale deed was false, fabricated, managed having been executed by misusing the above said Power of Attorney which was not warranted under the law. They further stated that they do not agree with and accept the said registered sale deed. It was further averred that, the said sale deed was prepared and got registered by the respondents / defendants in connivance and collusion with official respondents, without consent of the real owners i.e. applicants / plaintiffs, hence same is liable to be cancelled. It was further stated by the applicants/plaintiffs that they approached official respondents and objected to the changing of their record without their consent but no heed was paid by them. According to the applicants / plaintiffs, they came to know regarding above said forged registered sale deed dated 31.08.2015 about 2/3 months ago, thus the cause of action accrued to them when they came to know about the said sale deed. In the circumstances, they filed the suit for declaration, cancellation of documents and permanent injunction.

3. After admission of the suit and service of the process, defendants/respondents No.1 and 2 appeared and filed their written statements, denying therein the averments made in the plaint and prayed for dismissal of the suit.

4. After recording evidence of the parties and hearing the arguments advanced by learned counsel for the parties, trial Court dismissed the suit vide Judgment dated 17.08.2020 and decree dated 20.08.2020.

5. The applicants/plaintiffs assailed the Judgment and decree by preferring Civil Appeal No.87/2020 before District Judge Larkana which was also dismissed by the Appellate Court vide impugned judgment and decree dated 07.04.2021. Accordingly, the applicants have impugned the judgments and decrees passed by the courts below by means of instant Civil Revision Application.

6. I have heard learned counsel for the parties and have perused the material made available before me on the record.

7. Learned counsel for the applicants mainly submitted that one Ghulam Ali Sangi had filed Civil Revision application No.06/2001 before High Court of Sindh, Circuit Court Larkana which was dismissed on 07.07.2011 against which said Ghulam Ali Sangi filed a review application which was also dismissed on 18.09.2017. According to learned counsel, the applicants Talib Hussain and others had executed a general power of attorney, copy whereof is available at page-27 of the court file, thereby appointing/nominating respondent No.1 Syed Asad Ali Shah as their attorney for the purpose of representing them in the said case. However, respondent No.1 by misusing the power of attorney, got transferred the land in question in favour of his own father viz. respondent No.2 herein through registered sale deed, copy whereof is available at page-43 of court file. Learned counsel further submitted that the plea of the respondents was that father of applicants namely Nawab Ali had sold out the said land to respondent No.2 i.e. father of respondent No.1 in the year 1998 and after his death after one year the property in question was inherited by the plaintiffs/applicants. According to learned counsel such plea is false as respondent No.2 had expired on 01.04.2003 which is evident from the death certificate, copy whereof is available at page-61 of the court file. He further argued that the suit property was got transferred without first seeking the permission from the applicants or their consent. Thus the said transfer is not in accordance with law. He further submitted that even if any power of attorney was required to be executed, the applicants would have executed the same in favour of any third person and not in favour of respondent No.1 who is real son of respondent No.2 who is beneficiary of the property. According to learned counsel such fact has not been discussed in the impugned judgment thus the same are not warranted under the law. He further submitted that even the appellate court

has not applied his judicious mind and has only stamped the judgment and decree passed by the trial court which causes miscarriage of justice to the applicants. He further argued that the witnesses of the said power of attorney as well as the sale deed have not been examined before the trial court thus the said documents stand unproved. He further submitted that the applicants have also filed an application for impleading them in CP No.D-97/2019 for awarding compensation in connection with the suit property which is still pending adjudication in this court. According to learned counsel the courts below have passed the impugned judgments in a haphazard manner which caused miscarriage of justice to the applicants. He therefore prayed for allowing instant revision application and setting aside the impugned judgments and decrees.

8. On the other hand, Mr. Imadad Ali Mashori, leaned counsel for respondents No.1 and 2 opposed the revision application and submitted that the applicants have not come before this court with clean hands. According to him, the applicants have at all not denied the execution of aforesaid general power of attorney therefore, once the documents is admitted, its contents are deemed to be admitted and cannot be denied subsequently, and so also the same does not require to be proved by virtue of Article 113 of Qanoon-e-Shahadat Order, 1984. He further submitted that the courts below have rightly appreciated the evidence adduced by the parties and material brought on record. Therefore, the same do not warrant any interference by this court in exercise of its revisional jurisdiction. He further submitted that in the disputed general power of attorney there is, at all, no mention of civil revision application No.06/2001 although the main plea of the applicants is that the said power of attorney was executed by them in favour of respondent No.1 for the purpose of representing them in the said revision application. He further argued that even the contents of the general power of attorney show that the same was executed in respect of sale and transfer of the suit property and not for the purpose of representing the applicants in the aforesaid revision application. According to him, it was mandatory for the applicants to have proved their case instead of relying upon the weakness of other side as provided under Article 117 of Qanoon-e-Shahadat Order, 1984. Lastly, he prayed for dismissal of instant revision application.

9. Learned Assistant Advocate General appearing for the State submitted that the official respondents have got no nexus relating to the suit property as the dispute is between private parties; however, he submitted that the official respondents shall obey the judgment whatever passed by this court.

10. It appears that in instant case the main grievance of the applicants is; that one Ghulam Ali Sangi had filed Civil Revision No.6 of 2001 before this Court, thus they executed a General Power of Attorney registered at Serial No. 6287 dated 20.11.2014 at the Office of Sub-Registrar, Larkana, whereby they appointed / nominated respondent No.1, Syed Asad Ali Shah thereby authorizing him to represent them in the said case. However, according to them, respondent No.1 by misusing the power of attorney, sold out the suit land to his father i.e. respondent / defendant No.2 and such sale deed was got registered at the Office of respondent No.4 vide Serial No.6288 dated 20.11.2014, although neither the applicants had any such knowledge, nor had they given any such consent to respondent No.1. In the circumstances, the plea of the applicants is that the registered sale deed was false and fabricated having been executed by misusing the above said Power of Attorney.

11. In order to properly evaluate above said plea of the applicants, the contents of the said General Power of Attorney, copies whereof has been annexed by the applicants themselves along with the memo of Civil Revision which are available at pages 27 and 53 of the Court File, were minutely scrutinized. It appears that said Power of Attorney was executed by the applicants in favour of respondent No.1 and was got registered at the Office of Sub-Registrar, Larkana on 20.11.2014. The contents of memo of Civil Revision Application No.06 of 2001, wherein allegedly the applicants had executed said Power of Attorney, were also perused. To the utter surprise and shock of this Court, it was found that the said Revision Application was finally decided on 07.07.2011 i.e. more than three years prior to the execution of Power of Attorney in question. It is not understandable that when the disputed Power of Attorney was executed in November, 2014, then as to how the same was executed by the applicants authorizing respondent No.1 to represent them in the said Revision Application which had already been decided three years before the execution of said Power of Attorney.

12. It is also significant to point out at this juncture, that vide order dated 01.9.2025, office was directed to tag the files of Civil Revision Application No.06 of 2001 as well as C.P. No.D-97 of 2019. From the minute scrutiny of the file of Civil Revision No.06 of 2001, it appears that the file does not, at all, contain the said disputed General Power of Attorney dated 20.11.2014 or for that matter, even its copy. This also belies the assertion of the applicants that the said Power of Attorney was executed by them in favour of respondent No.1 to represent them in the said Civil Revision Application.

13. As stated above, the contents of the said General Power of Attorney were also perused from its copy annexed by the applicants with the memo of instant civil revision application. It seems that paras No.1, 6, 7 and 8 of the said power of attorney reflect that the applicants had authorized respondent No.1 to sell out the suit property so also transfer its possession. For the sake of convenience, the contents of aforesaid paras are reproduced hereunder:

*"1. To appoint and constitute sub-general power of attorney with same power **including sale/sub lease of the whole property** on our behalf.*

6. He can sign agreement, receive earnest money, execute receipts for same in respect of mortgage, present for registration receive balance amount admit and certify facts as full and effectively as our self would act and have done if present personally in case of said property.

*7. He has power to **pass and part with possession, transfer etc. in connection with the above property** as legally and effectively as the owner.*

*8. To collect cash or check or draft issued against **sale of above property.**"*

14. From bare perusal of above paras of disputed power of attorney, it is crystal clear that the plaintiffs / applicants had voluntarily authorized respondent No.1 to sell out the property and to transfer its possession and also to receive sale consideration in respect of the said property.

15. Needless to emphasize that by virtue of Article 95 of the Qanoon-e-Shahadat Order, 1984 presumption of truth and correctness is attached with the registered Power of Attorney and it shall be deemed that such Power of Attorney was so executed and was authenticated. In instant case, the power of attorney in question has duly been registered with the Sub-Registrar, Larkana, therefore, the contents thereof are deemed to be true and correct and

it is not necessary to examine the attesting witness of such registered document in order to prove its authenticity or veracity.

16. In the case of *Mst. SHAHNAZ AKHTAR and another Vs. Syed EHSAN UR REHMAN and others*, reported in 2022 S C M R 1398, it was held by Honourable Supreme Court:

“Under subsection (4) of section 33 of the Registration Act, it is clearly provided that any power of attorney mentioned in this Section may be proved by the production of it without further proof when it purports on the face of it to have been executed and authenticated by the person or Court. At this juncture, we cannot lose sight of Article 95 of the Qanun-e-Shahadat Order 1984 (Section 85 of Evidence Act) which relates to the presumption as to power of attorney whereby the Court has to presume that every document purporting to be a power of attorney and purported to have been executed before and authenticated by a Notary Public or any Court, Judge, Magistrate, Pakistan Council or Voice-Council or representative of Federal Government was so executed and authenticated. The documentary evidence, particularly for a registered document, enfolds a presumption of truth and genuineness and such presumption of truth is attached to the registered power of attorney which is admissible unless its genuineness is suspected and proved to be counterfeited or deceptive; its admissibility cannot be doubted to impede the agent from acting on behalf of principal unless the indenture of power of attorney is controverted and repudiated with satisfactory evidence. All the more so, the provisions contained under Article 79 of the Qanun-e-Shahadat Order 1984 interpret and deduce that it is not necessary to call attesting witnesses in proof of the execution of any document, not being a will, which has been registered in accordance with the provisions of the Registration Act unless the person by whom it is purported to have been executed specifically denies its execution which is missing in this case where execution of power of attorney is admitted”.

17. In another case of *Mst. IQBAL BIBI and others Vs. KAREEM HUSSAIN SHAH and others*, reported in 2024 S C M R 1233, a Full Bench of Honourable Supreme Court, while discussing various judgments of Superior Court, held as under:

“If the entirety of the case of the Respondents hinges on the fact that the allegedly fraudulent Power of Attorney is the root cause of the present lis then the burden to prove such fraud, in our view, lies upon them. However, they have failed to do so, rather the veracity of the Power of Attorney was not even

challenged at the evidence stage, when its authenticity was proved, as described in para. 6, herein above.

Furthermore, Article 95 of the QSO states:

"95. Presumption as to powers-of-attorney: The Court shall presume that every document purporting to be a power-of-attorney, and to have been executed before, and authenticated by, a notary public, or any Court, Judge, Magistrate, Pakistan Consul or Vice Consul, or representative of the Federal Government, was so executed and authenticated."

In Ziauddin Siddiqui the Plaintiff sought specific performance, alleging that the Defendant, through her husband and attorney had agreed to sell a house in Karachi, for Rs. 75,000, with an advance payment of Rs. 5,000 and the balance was payable within 6 months at the time of execution and registration of the sale deed. The Defendant in the suit allegedly failed to complete the sale, having left for the United Kingdom. Once in the United Kingdom the Defendant sent a Power of Attorney to complete the sale, which was prima facie incomplete and subsequent attempts to rectify the error were also inadequate. The Plaintiff claimed to have received possession of the property in question and asserted readiness to fulfill their part of the contract, while the Defendants allegedly failed to do so. Specific performance was sought based on these grounds and the Defendant in the written statement submitted before the Court pleaded that she and her husband mostly resided in the United Kingdom and that neither she nor her husband entered into any agreement of sale with the Plaintiff, as the property in dispute was the only one that the Defendant owned in Pakistan and there was no need or requirement of its sale, and further that the documents relied upon by the Plaintiff were either forged or irrelevant. In its decision, the High Court opined:

"It can hardly be disputed that a power of attorney In order to raise and sustain a presumption, under Article 95 of Qanun-e-Shahadat, 1984, of its execution before and authentication by inter alia, a Pakistan Consul or Vice Consul has to be so executed or authenticated. For a person executing such power in order to qualify for the referred presumption, under Pakistan Law, the exercise is required to have been gone into at the Pakistan Embassy in the United Kingdom. This, obviously, is not the position here and, therefore, no such presumption as referred arises.

... It would seem that where a purported power of attorney has actually been acted upon but does not qualify for the presumption under Article 95 of the Qanun-e-Shahadat 1984,

those who seek to rely upon it or are, allegedly, effected thereby may resort to due modes of its proof, which may include examination of its attesting witnesses. None of this, however, would be necessary if the donor of the power or its executant himself or herself admits its execution. In such an event the principle underlying Article 81 of the Qanun-e-Shahadat, 1984, would become applicable and the admission of the executant shall be sufficient proof of execution as against himself or herself."

(EMPHASIS ADDED)

With the aforementioned facts and dicta of the High Court in mind, in the present case, the Power of Attorney was duly testified by the Consulate General of Pakistan in Malaysia and was then registered in Pakistan, therefore it qualifies for the presumption of execution and authentication available as per Article 95 of the QSO. With regard to the presumption attached to a Power of Attorney under Article 95 of the QSO, the Lahore High Court in Iqbal Ahmad Sabri opined:

"The presumption as to the authenticity and genuineness of power of attorney has been attached under the provisions of Article 95 of Qanun-e-Shahadat Order that every document purporting to be a power of attorney and to have been executed before the authenticated by a Notary Public or any Court, Judge, Magistrate, British Counsel or Vice-Counsel or representative of Federal Government, was so executed and authenticated. The authentication is not merely attestation, but something more. It means that the person authenticating has assumed himself of the identity of the person who has signed the instrument as well as the fact of execution. It is for this reason that a power of attorney bearing the authentication of notary public or an authority mentioned in Article 95 is taken as "sufficient", evidence of the execution of the instrument by the person, who appears to be the executant on face of it. This provision of Article 95 of Qanun-e-Shahadat Order, 1984, is mandatory and it is open to the Court to presume that all the necessary requirements for the proper execution of the power of attorney have been duly fulfilled."

(EMPHASIS ADDED)

Furthermore, this Court in Shahnaz Akhtar has held:

"...Article 95 of the Qanun-e-Shahadat Order 1984 (Section 85 of Evidence Act) which relates to the presumption as to power of attorney whereby the Court has to presume that every document purporting to be a power of attorney and purported to have been executed before and authenticated by a Notary Public or any Court, Judge, Magistrate, Pakistan Council or Voice-Council or representative of Federal Government was so executed and

authenticated. The documentary evidence, particularly for a registered document, enfolds a presumption of truth and genuineness and such presumption of truth is attached to the registered power of attorney which is admissible unless its genuineness is suspected and proved to be counterfeited or deceptive; its admissibility cannot be doubted to impede the agent from acting on behalf of principal unless the indenture of power of attorney is controverted and repudiated with satisfactory evidence."

(EMPHASIS ADDED)

Therefore, the Power of Attorney in favour of the Appellants enfolds a presumption of truth and genuineness and its admissibility cannot be doubted as there exists no proof on record pointing towards it being forged."

18. From perusal of the General Power of Attorney it reflects that although the four executants of the Power of Attorney namely, Allah Dino, Shabbir, Ghulam Hussain and Riaz Hussain have put their thumb impressions on the said Power of Attorney which shows that they are illiterate and not educated persons; however the fifth executant namely, Talib Hussain, who has been arrayed as Applicant No.1 and is also Attorney of Applicants No.2 to 4 in instant Revision Application, has signed the said power of attorney as well as the affidavit filed in support of instant Civil Revision, in English. The said affidavit also does not contain any clause that the deponent Talib Hussain being not conversant with English language, the contents of the affidavit were read over and translated in Urdu to him. These facts establish that he is an educated person and is also conversant with English language. It is not understandable that despite that, as to why he did not read with contents of the said Power of Attorney which, at all, does not find any mention of Civil Revision Application No.06 of 2001 and which contain the paras, as quoted above, which specifically authorize respondent No.1 to sell out, transfer its possession and also to receive sale consideration in respect of the property in question. It also does not contain even a single word that the said power of attorney is being executed for the purpose of enabling respondent No.1 to represent the plaintiffs / applicants in the said civil revision application. In this view of the matter, the applicants also cannot take a plea that they being uneducated persons, signed / put their LTIs on the said General Power of Attorney in good faith.

19. It may be reiterated that the plaintiffs never denied execution of General Power of Attorney in favour of defendant No.1, in their plaint. Rather, they have themselves produced copy of the said General Power of Attorney with the plaint. In para 3 of the plaint they categorically admitted that *the plaintiffs made power of attorney to the defendant No.1 Syed Asad Shah, about the above said civil revision at High Court Larkana which was registered Sr. No.6284 dated 20.11.2014 at the office of defendant No.4 for conducting the above said revision on behalf of the plaintiffs..*

20. Besides above, official witness viz. Junior Clerk, Ashfaq Ali, in his evidence categorically admitted that *General Power of attorney produced at Ex.89-D was registered at serial No.6288 dated 20.11.2014 was allotted to it.* He further admitted that *all the executants have put their thumb impression on TP Register and other record and that all the documents produced by him (power of attorney and sale deed) are genuine and registered one in their office.*

21. In such circumstances, production of the witnesses of said power of attorney are not necessary as admitted document need not to be proved in view of the provision of Article 113 of the Qanoon-e-Shahadat Order, 1984, contents whereof are reproduced hereunder:-

"Facts admitted need not be proved... No fact need be proved in any proceeding which the parties thereto or their agents agree to admit at the hearing, or which, before the hearing, they agree to admit by any writing under their hands, or which by any rule or pleading in force at the time they are deemed to have admitted by their pleadings: Provided that the Court may, in its discretion, require the facts admitted to be proved otherwise than by such admissions."

22. The plaintiffs voluntarily produced certified true copy of power of attorney bearing No.6288 in evidence and copy of said attorney with the plaint. They have not denied the execution of power of attorney so also their signature, thumb impression and photographs appended and affixed thereon.

23. In the case reported as *Mst. Munawar Jan and 6 others Vs. Mst. Safaidan and 4 others* (2025 MLD 87 [Lahore (Rawalpindi Bench)]), it was held as under:

“12. Article 113 of the Qanun-e-Shahadat Order, 1984 ordains that no fact need be proved in any proceeding which the parties thereto or their agents agree to admit at the hearing, or which before the hearing, they agree to admit by any writing under their hands, or which by any rule or pleading in force at the time they are deemed to have admitted by their pleadings...

In view of admissions with regard to the validity of gift by the petitioners' own witness, there remains no necessity for the "respondents" to assert or lead any material to that effect. It clearly evinces from the record that after effecting of gift mutation necessary entries were incorporated in the revenue record for the subsequent years.”

24. Needless to emphasize that a plaintiff is bound to prove his case himself by adducing tangible evidence and producing authentic documents and he cannot take benefit of the weakness, if any, surfaced in the defendant's case.

25. In the case of *NAEEM RAFI Vs. WASEEM and 8 others*, reported in 2024 Y L R 1360 [Balochistan], it was held as under:

*“7. No doubt the plaintiff is duty bound to prove his case on the strength of his own evidence. Under Article 117 of the Qanun-e-Shahadat Order, 1984 the burden of proof lies on person who desires the court to give decision in his favor. The plaintiff must prove the case on its own leg he cannot take benefit from the weakness of defendant's side. In this regard reliance is placed on the case of *Nasir Ali v. Muhammad Asghar* 2022 SCMR 1054, whereby it has been observed as under:*

"6. According to the Article 117 of the Qanun-e-Shahadat Order, 1984, if any person desires a court to give judgment as to any legal right or liability, depending on the existence of facts which he asserts, he must prove that those facts exist and burden of proof lies on him. The terminology and turn of phrase "burden of proof" entails the burden of substantiating a case. The meaning of "onus probandi" is that if no evidence is produced by the party on whom the burden is cast, then such issue must be found against him. The burden of proof for the deceitful transaction rests normally on the person who impeaches it. In a suit for declaration alleging that the sale was fictitious, the onus is on the plaintiff to prove the same. Where the evidence of plaintiff was self- contradictory and not confidence inspiring then he must fail and where the case is doubtful, the decision must be given in favour of defendant rather than the plaintiff. It is a well settled

exposition of law that the plaintiff must succeed on the strength of his own case rather than the weakness of the defendant. The lawsuits are determined on preponderance or weighing the scale of probabilities in which Court has to see which party has succeeded to prove his case and discharge the onus proof which can be scrutinized as a whole together with the contradictions, discrepancies or dearth of proof. It is the burdensome duty of the Court to detach the truth from the falsehood and endeavor should be made in terms of the well-known metaphor, "separate the grain from the chaff" which connotes and obligates the Court to scrutinize and evaluate the evidence recorded in the lis judiciously and cautiously in order to stand apart the falsehood from the truth and judge the quality and not the quantity of evidence."

26. In the judgment passed by this Court in the case of *PAKISTAN through Secretary, Ministry of Defence, Islamabad and 2 others Vs. WADERO LAL BUX*, reported in 2021 C L C 1609 [Sindh], it was held as under:

"46. As per Articles 117, 118 and 122 of Qanun-e-Shahadat, heavy burden was on the shoulders of the respondent (plaintiff in the suit) to prove his affirmative case of ownership through cogent and reliable evidence, which was in his special knowledge but he miserably failed to prove the same. It is also well settled principle of law that party approaching Court for grant of relief would have to discharge his own burden and stand on his own legs to succeed and could not avail benefit of any weakness in the case of opposite party. Reliance placed on the case-law reported in 2010 SCMR 1630."

(Clarification \ made for the sake of convenience)

27. The applicants have also raised a plea that respondent No.1 on the basis of aforesaid disputed general power of attorney had sold out the suit property to his own and real father viz. respondent No.2, which makes the registered sale deed executed by him in favour of respondent No.2 as highly suspicious and doubtful. Learned counsel for the applicants argued that in case any Power of Attorney was required to be executed by the applicants for selling out and / or transfer the suit property in favour of respondent No.2, they would have executed the same in favour of a third person and not in favour of respondent No.1 who is real son of respondent No.2, therefore, the execution of sale deed by respondent No.1 in favour of his real father viz. respondent No.2 on the basis of said Power of Attorney does not seem to be in consonance with the law and equity. In this context, suffice it to say that the fate of the legal

proceeding is to be decided strictly following the relevant legal provisions and not on the basis of surmises and conjectures. I am of the firm view that there is no provision in any law or, even according to injunction of Islam, which puts any bar or prohibition that a son cannot sell out any property to his own and real father. In such circumstances, the plea of the applicants seems to be untenable.

28. It may be added that normally this Court in exercise of its revisional jurisdiction is not supposed to interfere with the concurrent findings recorded by two Courts below, unless there are exceptional circumstances to do so. In this context, reference may be made to the case of *Haji MUHAMMAD YUNIS (DECEASED) through legal heirs and another Vs. Mst. FARUKH SULTAN and others*, reported in 2022 SCMR 1282, wherein it was held by Honourable Supreme Court as under:

“The High Court did not have, in its revisional jurisdiction, the legal mandate to reverse the concurrent findings of the trial and appellate courts, without first addressing the said reasoning of the trial and appellate courts. Accordingly, the judgment of the High Court warrants correction.”

29. In another case reported as *MUHAMMAD FEROUZE and others Vs. MUHAMMAD JAMAAT ALI* (2006 SCMR 1304), the Apex Court held as under:

“12. It is well-settled that concurrent findings of fact by two Courts below cannot be disturbed by High Court in second civil appeal, muchless in exercise of the revisional jurisdiction under section 115, C.P.C. unless the two Courts below, while recording the findings of fact have exercised jurisdiction not vested in them or failed to exercise jurisdiction so conferred. Scope of interference with concurrent findings of fact by High Court in exercise of revisional jurisdiction is very limited. While examining legality of judgment and decree in exercise of its powers under section 115, C.P.C., High Court cannot upset finding of fact, however, erroneous such finding is, on reappraisal of evidence, and take a different view of evidence.”

30. In the case of *MUNAWAR ALI Vs. SEPCO through Chief Executive, Sukkur and 4 others*, reported in 2020 MLD 919 [Sindh (Larkana Bench)], it was held as under:

“15. The provisions of section 115, C.P.C. envisage interference by the High Court only on account of jurisdiction alone, i.e. if a

Court subordinate to the High Court has exercised a jurisdiction not vested in it, or has irregularly exercised a jurisdiction vested in it or has not exercised such jurisdiction so vested in it. It is settled law that when a Court has jurisdiction to decide a question it has jurisdiction to decide it rightly or wrongly both on fact and law. Mere fact that its decision is erroneous in law does not amount to illegal or irregular exercise of jurisdiction. For an Applicant to succeed under section 115, C.P.C., he has to show that there is some material defect or procedure or disregard of some rule of law in the manner of reaching that wrong decision. In other words, there must be some distinction between jurisdiction to try and determine a matter and erroneous action of a Court in exercise of such jurisdiction. It is a settled principle of law that erroneous conclusions of law or fact can be corrected in appeals and not by way of a revision which primarily deals with the question of jurisdiction of a Court i.e. whether a Court has exercised a jurisdiction not vested in it or has not exercised a jurisdiction vested in it or has exercised a jurisdiction vested in it illegally or with material irregularity."

31. The upshot of above discussion is that the applicants have not made out a case for interference in the impugned judgments and decrees passed by the Courts below in exercise of its revisional jurisdiction. Consequently, instant civil revision application is hereby dismissed being meritless.

32. Let file of Civil Revision Application No. S-06 of 2001 (re-Ghulam Ali Sangi Versus Mst. Shahzadi Saeeda Sultana and others) be consigned to record and file of C.P No.D-97 of 2019 be consigned to concerned branch. The office shall return the R&Ps of F.C Suit No.293 of 2016 and R&Ps of Civil Appeal No.87 of 2020 along with a copy of judgment to the trial Court as well as first Appellate Court, for compliance.

JUDGE

Larkana

Dated. 15.09.2025

Approved for Reporting