

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Second Appeal No.44 of 2024

(*Talib Hussain Fareedi v. Abdul Ghani & Others*)

DATE: ORDER WITH SIGNATURE(s) OF JUDGE(s)

For Orders as to Maintainability

20-4-2026

Mr. Imran Khan, Advocate for Appellant

1. **Sana Akram Minhas, J:** The Appellant, claiming inheritance rights in the “**Subject Property**” – namely, Plot No.2235, Lyari Quarters, Karachi (measuring 92 square yards) – has challenged the concurrent findings returned by the two Courts below.

Background

2. The learned Trial Court, vide Order dated 15.2.2023 (**Court File Pg. 45**), allowed the application filed by Respondent No.1(iii) under Order 7 Rule 11 CPC (**Court File Pg. 119**) and rejected the Appellant’s Plaint in Civil Suit No.887/2022 (“**Civil Suit**” – **Court File Pg. 81**), inter alia, on the grounds that the Civil Suit was barred by limitation and failed to disclose any cause of action against the Respondents. Thereafter, the Appellant preferred Civil Appeal No.34/2023 (**Court File Pg. 51**), which too stood dismissed vide the Order dated 16.11.2023 (“**Impugned Order**”).

Trial Court’s Decision

3. In rejecting the Plaint, the Trial Court primarily observed:
 - i) The Appellant had failed to place on record any material to establish that the Subject Property was an inheritance property, allegedly left behind by the Appellant’s deceased father, who passed away in August 1983;
 - ii) The lease of the Subject Property, executed in 1990 (more precisely, a registered lease dated 14.10.1990 as per the Written Statement of the legal heirs of the deceased Respondent No.1), in favour of the

Appellant's brother namely, deceased Respondent No.1 (who expired on 27.1.2011), was admittedly issued – irrespective of the stated reason in paragraph 4 of the Plaint – with the consent of all legal heirs, including the Appellant; its cancellation was sought only in 2022, after 32 years, thus being ex facie barred by limitation.

First Appellate Court's Decision

4. While maintaining the Trial Court's Judgment and Decree, the Appellate Court in its Impugned Order noted:
 - i) A Property Tax Form-1 ("**PT-1**"), claimed (in paragraph 2 of Plaint) to have been issued in the name of the Appellant's deceased father in respect of the Subject Property, is not a title document and does not confer ownership rights;
 - ii) The Plaint was internally contradictory: in paragraph 4, the Appellant claimed that the lease was executed in favour of deceased Respondent No.1 to obtain a loan from the *House Building Finance Company*, whereas in paragraph 12 it was alleged that all loans were taken by the Appellant during his employment with *Habib Bank Limited*. The Court, therefore, held that no plausible explanation existed for the execution of the registered lease in favour of deceased Respondent No.1 when the alleged financing was obtained by the Appellant himself;
 - iii) Whether framed as a suit for cancellation of a document or for a declaration that an instrument is forged, it falls within the ambit of Articles 91 or 92 of the *Limitation Act, 1908*; in either case, the prescribed period of limitation is three (3) years;
 - iv) No recording of evidence is required where a suit is ex facie barred by limitation, as held in **Mushtaque Ali Shah v. Bibi Gul Jan (2016 SCMR 910)**.

Appellant's Submissions

5. When confronted with the foregoing aspects, learned Counsel for the Appellant argued that:
 - i) The Subject Property formed part of the deceased father's estate, as purportedly evidenced by Form PT-I (**at Court File Pg. 123**);

- ii) The Civil Suit is not confined to cancellation of the lease but also seeks declaration, partition, and permanent injunction;
- iii) The Appellant is also in possession of a portion of the Subject Property and entitled to its partition, which, according to him, stands acknowledged by all legal heirs (Respondents) under the “*Agreement Between Legal Heirs*” dated 21.2.2022 (**Court File Pg. 127**), treating the property as inheritance; and
- iv) The Appellant ought to have been afforded an opportunity to lead evidence in support of his case.

Point For Determination

- 6. The question that falls for determination is whether the Plaint was liable to rejection on the grounds of absence of title and limitation, without recording evidence.

Decision

- 7. The matter has been heard and the record perused.
- 8. The submissions advanced on behalf of the Appellant are devoid of merit for the following reasons:
 - i) The reliance placed upon the document purported to be a PT-1 (**at Court File Pg.123**), is wholly misconceived. A mere glance reveals that the document is not a PT-1 at all, but rather a Certificate of Domicile (Form P-1) issued under the *Pakistan Citizenship Act, 1951*. Such a document bears no nexus whatsoever to the dispute at hand and provides no evidence of title, ownership, or inheritance in respect of the Subject Property. When put to a specific query, Counsel was unable to explain this and, upon being called to produce the alleged PT-1 from the record, submitted that this was the only document in the Appellant’s possession. In these circumstances, the mere assertion that the Subject Property formed part of the estate of the deceased father remains unestablished.
 - ii) Even otherwise, a PT-1, even if assumed to have been issued in the name of the Appellant’s deceased father in respect of the Subject Property, is not a document of title and confers no proprietary rights. At best, a PT-1 is maintained for fiscal and administrative purposes

under the *Sindh Urban Immovable Property Tax Act, 1958* – principally for assessment and record of property tax – and cannot, by itself, be treated as evidence of ownership or succession. As held in **Muzaffar Khan v. Sanchi Khan (2007 SCMR 181)**, entries in PT-1, which are issued by and form part of the records maintained by the Excise and Taxation Office, neither confer nor constitute title to immovable property. They merely reflect possession or liability for fiscal purposes, and cannot, by themselves, form the basis of a claim of ownership, nor can a person be declared owner solely on the basis of such entries.

- iii) The argument founded upon the Agreement dated 21.2.2022 and the Appellant's alleged possession is equally misconceived:
 - (a) In the first place, a private arrangement *inter se* legal heirs does not, in law, confer title upon the Appellant's deceased father, nor elevate him to the status of owner, nor convert the character of the Subject Property into part of his estate. Title to immovable property must emanate from a lawful and recognized source, and not from subsequent understandings amongst interested parties.
 - (b) Secondly, such an Agreement, being of recent origin, cannot be pressed into service to overcome the bar of limitation, or to validate or resurrect a claim long since extinguished. Equally, the plea of alleged possession, in the absence of lawful title or a legally enforceable right, does not furnish an independent basis to sustain the claim and does not advance the Appellant's case.
- iv) The mere addition of ancillary reliefs – such as declaration, partition, and permanent injunction – does not alter the essential character of the *lis*, which is founded upon the challenge to a registered lease executed in the year 1990. Where the principal relief is, in substance, the cancellation of a document, the inclusion of consequential reliefs cannot be employed to circumvent the bar of limitation. The Pleint, read as a whole, leaves no manner of doubt that the Appellant seeks to nullify the legal effect of the lease in favour of his deceased brother (deceased Respondent No.1). Such a challenge, being squarely governed by the prescribed period of limitation, cannot be entertained after the lapse of more than three decades.
- v) Lastly, as regards the Appellant's insistence on an opportunity to lead evidence, a litigant must stand or fall on the case set up in the pleadings and cannot supplement it later through evidence. Simply

put, evidence cannot be led to improve or reconstruct a plaint. No amount of evidence can cure a plaint suffering from material and/or legal infirmities. This is particularly so where the foundational assertion of title – namely, that the Subject Property belonged to the Appellant's deceased father – is not established from the record. Nor can such title be established in the present case, in view of the fact that the Appellant's own case rests on the alleged existence of a PT-1 in the name of the deceased father, which, even if produced or proved, does not constitute a document of title and confers no ownership rights upon its holder.

9. In view of the foregoing, the learned Trial Court rightly exercised its jurisdiction in rejecting the Plaint, and the learned first Appellate Court has committed no error in affirming the same. No ground for interference has been made out. Hence, this Second Appeal has no merits and is accordingly **dismissed**, with no order as to costs.

JUDGE