

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Civil Revision No.S-143 of 2023

Applicant : Ali Raza s/o Munir Ahmed Jatt, *through*
Mr. Abdul Rehman A. Bhutto, Advocate.

Respondents : Mansha Bai and others, *through*
Mr. Vinod Kumar G. Jessrani, Advocate
and Mr. Abdul Waris Bhutto,
Assistant Advocate General Sindh.

Date of Hearing : 08.08.2025.
Date of Short Order : 08.08.2025
Date of Reasons : 11.08.2025.

J U D G M E N T

Ali Haider 'Ada':J .- Through this Civil Revision Application, the applicant assailed the concurrent findings of the two Courts below. The Respondent No. 1 instituted the F.C Suit No.95 of 2022, seeking possession of the suit property, cancellation of an agreement, recovery of mesne profits, and permanent injunction, the learned trial Court, after a full-fledged trial, decree the suit in favour of Respondent No. 1. Being aggrieved and dissatisfied by the said judgment and decree, the applicant preferred an appeal before the learned District Judge, Kashmore at Kandhkot, which came to be registered as Civil Appeal No. 50 of 2023. However, the learned Appellate Court dismissed the said appeal and upheld the findings of the learned trial Court. The applicant, aggrieved by the concurrent findings of both Courts below, preferred the instant Civil Revision.

2. The brief facts of the case are that Respondent Nos. 1 and 2, both ladies, instituted a civil suit before the learned trial Court, asserting that they had purchased the suit property measuring 14 ghuntas, situated in Block No. 18/1 at Deh Domewali, by virtue of a registered sale deed dated 17-02-2015, executed in their favour by the lawful owner, Raja Bashir Ahmed. They narrated that despite their lawful purchase, the possession of the suit property was illegally retained by the applicant (defendant No.1 in the suit). The applicant contested the suit and filed a written statement, taking a specific plea that the suit property was actually purchased by his father, Munir Ahmed, on the basis of an agreement to sell executed in the year of 1987 by Raja Javed Akhter, who had allegedly purchased the property from the original owner, Raja Bashir Ahmed. Furthermore, the applicant relied on a subsequent document, namely an

Iqrarnama dated 20-09-2022, executed by Amjad Bashir, son of Raja Bashir Ahmed, wherein he acknowledged that his father had sold the said property to Raja Javed Akhter, who in turn had sold it to the applicant's father. On the strength of this plea, the applicant claimed a better right to possession. The revenue authorities also submitted their stance during proceedings, confirming that out of the total area of 14 ghuntas, an area of 07 ghuntas stood recorded in the name of Respondent No. 1 (Plaintiff No. 1), while the remaining 07 ghuntas were in the name of Respondent No. 2 (Plaintiff No. 2). It also came on record that 16 shops had been constructed on the suit property, and one shop was in the possession of the applicant (defendant No.1). The revenue record thus supported the claim of the lady respondents/plaintiffs. After completion of pleadings, the learned trial Court framed the following issues for determination:

1. *Whether the suit of plaintiff is not maintainable under the law?*
2. *Whether suit property "shop No.04" is exclusive property of plaintiff and comes within the limits of purchased area 00-14 Ghuntas, situated in Block 18/1 deh Domewali?*
3. *Whether the Defendant No.1 is in illegal and unlawful; possession of the suit property?*
4. *Whether the father of defendants No.1 had purchased the suit property "shop No.4" in the year 1987 through sale agreement?*
5. *What should the decree be?*

3. In the civil suit, the plaintiffs (Respondent Nos. 1 and 2) led their evidence in support of their case. On their behalf, their duly authorized attorney was examined, who exhibited the registered sale deed dated 17.02.2015, entries from Form VII-B, the redemption deed, and other relevant documents in support of their title and possession. In addition, the plaintiffs produced a private witness, namely Wazir Ali, who was also examined to substantiate their case. On the other hand, the applicant (defendant) also led his evidence by producing and exhibiting an agreement to sell executed in 1987, the Iqrarnama dated 20-09-2022, and certain statements made by Manohar Lal along with an official order. The applicant further examined two witnesses, namely Zulfiqar and Sultan Ahmed, in support of his defense. In addition, the authorized official from the office of the Sub-Registrar was examined, who exhibited the registered sale deed in favour of the respondents/plaintiffs, as well as other related documents including the mortgage deed, redemption deed, and relevant registration records. Likewise, from the Mukhtiarkar's office, the authorized person appeared and exhibited the relevant entries in Form

VII-B along with other supporting revenue documents reflecting the ownership of the respondents.

4. After recording the evidence from both sides, the learned trial Court concluded the proceedings and, after hearing arguments, passed judgment and decree in favour of the respondents/plaintiffs, directing the applicant/defendant to vacate the suit property. Additionally, the learned trial Court awarded mesne profits for the past three years. Initially, a preliminary decree was drawn, and report of concerned functionary, a final decree was accordingly prepared.

5. The applicant, being aggrieved by the said judgment and decree, preferred an appeal before the learned District Judge, Kashmore at Kandhkot. However, the learned Appellate Court, after hearing the parties, dismissed the appeal and affirmed the findings and decree of the learned trial Court, resulting in the passing of concurrent judgments and decrees by both Courts below.

6. Learned counsel for the applicant contended that the learned trial Court erred in law and facts while deciding the suit, as the civil suit filed by Respondent No. 1 and 2 was hit by misjoinder and non-joinder of necessary parties. It was specifically argued that the learned trial Court failed to implead the real owner of the suit property as a party to the proceedings and also did not summon Amjad Bashir, who had executed an Iqrarnama in favour of the applicant, which was a material piece of evidence supporting the applicant's claim. It was further argued that the learned Appellate Court fell into grave error by merely endorsing the findings of the trial Court without independent application of judicial mind, and by mechanically dismissing the appeal. Finally, the applicant prayed for allowing the Civil Revision and for remanding the matter to the trial Court, with directions to implead the true owner as a necessary party, as well as to add the individual who supported the applicant's claim by virtue of the Iqrarnama.

7. Conversely, learned counsel appearing on behalf of Respondents No. 1 and 2 submitted that the documents relied upon by the applicant carry no legal sanctity. He emphasized that the agreement to sell, purportedly executed in 1987 in favour of the applicant's father, was not executed by the actual owner of the suit property, but rather by a third party, Raja Javed Akhter, who had no legal nexus or title with respect to

the suit land. He further submitted that the Iqrarnama, dated 20-09-2022, relied upon by the applicant, is merely a self-serving document written on plain white paper and does not fulfill the legal requirements of a valid document under the law. It was also argued that the alleged non-joinder of parties does not render the suit defective, as the individuals whom the applicant claims to be necessary parties do not have any interest or direct involvement in the present dispute. The dispute is solely between the respondents and the applicant. In support of his arguments, learned counsel placed reliance upon the judgments reported as 2023 SCMR 273.

8. On the other hand, learned Assistant Advocate General supported the impugned judgments and decree/s passed by both the Courts below. He further relied on the statements and depositions of the official witnesses/functionaries from the Sub-Registrar's office and the Mukhtiarkar's office, who confirmed that the ownership of the suit property vested in the respondents and denied the legal character or entitlement of the applicant over the suit property.

9. Heard the learned counsel for the parties and perused the material available on the record with due judicial scrutiny.

10. First and foremost, the revenue record explicitly reflects that an area measuring 0-07 ghuntas, out of Block No. 18/1, Deh Domewali, stands recorded in the name of Mst. Mansha Bai (Respondent No. 1), and another area of 0-07 ghuntas in the name of Mst. Ushan Bai (Respondent No. 2). The total area admeasuring 0-14 ghuntas, and this record is based upon a registered sale deed executed by the lawful owner, Raja Bashir Ahmed, in favour of the said respondents. The registered sale deed was duly incorporated into the revenue record and maintained in Form VII-B on 09.02.2016. It is also undisputed that 16 shops have been constructed on the said land, and one of the shops measuring 1300 square feet was in the possession of the applicant (Defendant No. 1), who has since been evicted pursuant to the decree passed by the learned Trial Court. In contrast, the applicant's claim of title and possession is founded solely on two documents, an agreement to sell, and Iqrarnama. Upon scrutiny, the agreement to sell reveals that it was executed between Raja Javed Akhter and the applicant's father, Munir Ahmed, in the year of 1987. However, a careful perusal of the said document reveals several legal deficiencies. First, Raja Javed Akhter, who purportedly acted as the vendor/owner had no legal title or ownership in respect of the suit property, and therefore,

was not competent to sell the same. Secondly, the agreement fails to provide any description of the suit property, neither the block number, measurement, location, nor any demarcation details have been mentioned. Thus, the agreement, on its face, lacks specificity and legal enforceability. The applicant's contention that Raja Javed Akhter had earlier purchased the property from Raja Bashir Ahmed and then sold it to his father is unsupported by any oral and documentary evidence. No registered instrument or title document has been placed on record to substantiate this chain of transactions. Even, an agreement to sell is not a title document and does not transfer ownership or any legal title in immovable property to the buyer. Reliance is placed upon the case *Muhammad Iqbal and others vs Nasrullah* (2023 SCMR 273). The applicant is duty-bound to establish any document relied upon in his favour through the prescribed legal mechanism; mere production of a document, without its proof in accordance with law, is insufficient to warrant a finding in his favour. In the present matter, this essential requirement is entirely lacking on the part of the applicant.

11. Further, the applicant relies on an Iqarnama dated 20-09-2022, allegedly executed by Amjad Bashir, son of the original owner Raja Bashir Ahmed. However, this document is also legally deficient, as it is merely written on plain white paper, lacks registration, and carries no property description. It merely asserts a statement of past sale but without any evidentiary backing or legal formality. Importantly, such a document does not satisfy the requirements under the law to transfer or confirm ownership, nor it override the legal sanctity of a registered sale deed already executed in favour of the respondents and duly reflected in the revenue record. Thus, both documents on which the applicant placed reliance fail to establish any legal title in his favour. On the contrary, the respondents' title is evidenced through a registered sale deed backed by official revenue entries, which carries evidentiary value and legal weight under the law. The findings of the trial Court and Appellate Court, based on proper appreciation of facts and law, and do not call for interference by this Court under revisional jurisdiction. Reliance is placed upon the case of *Mst. Zaitoon Begum vs Nazar Hussain and another* (2014 SCMR 1469). In contrast, the respondents have produced a registered sale deed, duly executed by the lawful owner Raja Bashir Ahmed, and have had the property entered in the official revenue record under Form VII-B, which clearly reflects ownership in the names of Mst. Mansha Bai (Respondent

No.1) and Mst. Ushan Bai (Respondent No.2). Additionally, even though he relies on an Iqrarnama allegedly executed by the son of the original owner, no effort was made by the applicant to implead the said legal heirs or to bring them on record in any formal proceedings to assert his purported rights. The Iqrarnama, in itself, lacks legal standing and does not confer any ownership rights, especially in the absence of corroborating evidence or formal title documentation. Therefore, the applicant's claim is not supported by any legally admissible or enforceable title document, and his failure to pursue legal remedies over the course of several decades clearly reflects the weakness of his case. The concurrent findings of the Courts below, based on the registered title of the respondents and the absence of any legal proof from the applicant, are found to be just, proper, and in accordance with law.

12. Furthermore, with respect to the applicant's objection regarding misjoinder and non-joinder of necessary parties, it is pertinent to note that no suit shall be defeated merely on the ground of misjoinder or non-joinder of parties, unless the non-joinder affects the core issue of adjudication. The applicant's contention that the original owner or his legal heirs should have been impleaded as parties to the suit is unsustainable, as the dispute essentially pertains between the applicant and Respondent as the title of Raja Bashir, previous owner is not disputed. Even, if the applicant considered any individual such as the original owner or his heirs, a necessary party to establish his defense, it was well within his right to summon them as witnesses. As per the statutory scheme of the Civil Procedure Code, after framing of issues, it is the duty of the parties to produce their evidence in accordance with the procedure, including the filing of a witness list. Nothing on record suggests that the applicant made any such attempt to summon the original owner or his son Amjad Bashir, despite relying on the Iqrarnama allegedly executed by him. The applicant failed to include them in his witness list and did not produce them in his defense, which reflects a clear lapse on his part. Thus, the plea of misjoinder and non-joinder appears to be a desperate and belated attempt to question well-established legal proceedings, and it carries no weight in the eyes of law. Reliance is placed upon the cases of *Rehmatullah and others versus Saleh Khan and others* (2007 SCMR 729), *Anoud Power Generation Limited and others versus Federation of Pakistan and others* (PLD 2001 Supreme Court 340). In the case of Mst.

Jannat Bibi v. Saras Khan (2011 SCMR 1460), it was held by the Apex Court that:--

"It is by now settled principle of law that a plaintiff cannot be denied relief on the ground of mis-joinder or non-joinder of a party. Even otherwise, it is the duty of the Court to do justice and not to knock out the parties on technical grounds".

13. Consequently, vide short order dated 08.08.2025, the instant Civil Revision Application was dismissed, and the foregoing constitute the detailed reasons for the said order.

JUDGE