

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Civil Revision No. S- 92 of 2023
(Dr. Rajkumar alias Gul vs. Anand Ram & others).

Applicant : Dr. Rajkumar alias Gul son of Late Ram Chand, Hindu, *through* Mr. Vinod Kumar G. Jesrani, Advocate.

Respondents : 1). Anand Ram son of Hotu Mal,
2).Sunny Kumar, *through* Mr. Shakeel Ahmed Abro, Advocate.
3).Sub Registrar, Larkana
4). City Survey Officer, Larkana
5. Province of Sindh, through Secretary Revenue Department Sindh. *through* Mr. Abdul Waris Bhutto, Assistant Advocate General, Sindh.

Date of Hearing : 16.10.2025.

Date of Decision : 16 .10.2025.

Date of Reasons : 23.10.2025.

JUDGMENT

Ali Haider 'Ada'.J:- Through the instant Civil Revision Application, the applicant has assailed the judgment and decree dated 15.10.2022, passed by the learned IV Senior Civil Judge, Larkana, (trial Court) in F.C. Suit No.49 of 2019, filed by the applicant as plaintiff, seeking declaration, cancellation of documents, possession, and permanent injunction. The learned trial Court, after evaluating the material available on record and hearing the parties, dismissed the suit of the applicant. Being dissatisfied with the said decision, the applicant preferred a civil appeal before the learned Appellate Court, which, vide judgment and decree dated 17.05.2023, maintained the findings of the learned trial Court and dismissed the appeal. Feeling aggrieved and discontented with the concurrent findings of the Courts below, the applicant has invoked the revisional jurisdiction of this Court through the present Civil Revision Application.

2. The case of the applicant is that he, along with Respondent / Defendant No.1 namely Anand Ram, jointly purchased the suit property bearing No.1405, admeasuring 143 square yards, situated at Nawa Tak

Muhalla, Larkana, (Suit Property) by contributing and investing a substantial amount towards its purchase. The applicant claims to have a 66% share in the said property, whereas Respondent No.1 Anand Ram holds a 33% share. It is further stated that, with mutual understanding between the parties, the property was purchased in the name of Respondent/defendant No.2 Sunny Kumar for convenience. However, subsequently, both Respondents No.1 and 2 refused to transfer the record of rights of the suit property in favour of the applicant despite repeated demands. Hence, being aggrieved, the applicant has filed the present Civil Revision. On the other hand, the respondents, through their written statement, categorically denied the assertions made by the applicant and termed the claim as false, frivolous, and misconceived. They contended that the applicant has failed to produce any cogent evidence or convincing reason to substantiate his alleged ownership or investment in the suit property.

3. After completion of the necessary legal formalities and proceedings, the learned trial Court framed the following issues for determination:

1. *Whether the suit is not maintainable? (OPD)*
2. *Whether plaintiff for himself and defendant No.1 entered into oral agreement with Khalil-ur-Rahman and Rashid Ali and thereby purchased a house in C.S No.1405, measuring 143 sq. yards, situated in ward-C, Nawa Tak Muhalla, Larkana in 2012 and paid Rs.6,70,000/-? (OPP)*
3. *If issue No.2 is in the affirmative, whether plaintiff made oral settlement with defendant No.1, thus, each of them would have 50 percent share in the house and the same was to be registered in their favour and the suit property was demarcated and wall was constructed by plaintiff but was demolished by defendant No.1 & 2? (OPP)*
4. *Whether defendant No.1 got prepared sale deed in favour of his nephew defendant No.2 and got plaintiff's trust with undertaking that he would hand over his due share to him and refused to do so thereafter? (OPP)*
5. *Whether the suit property was purchased by defendant No.1 from its owners and he got registered the same in favour of defendant No.2 after payment of sale consideration that is Rs.100,0000/- and was put to possession thereof? (OPD)*
6. *Whether the plaintiff is entitled to the relief asked for? (OPP)*
7. *Conclusion.*

4. After framing the issues, the applicant examined himself and produced certain documents, including a stamp paper executed by Mst. Farida and a notification regarding his transfer and posting. The applicant also examined one witness, namely Dharam Pal, who introduced himself as the Vice Chairman of the Panchayat Committee (Arbitration Committee) and deposed that an application was submitted to him concerning the grievance of the applicant. Furthermore, the applicant examined another witness, Anwar Ali, who stated that, being a common friend of the parties, a Faisla (settlement) was affected between them. The applicant also produced witness Daya Ali Gul, who deposed that the property in question had been sold out and that the previous owner had raised certain objections. Another witness, Rajandar, was examined by the plaintiff, who supported the stance that the property was in possession of the applicant. Additionally, witnesses Ameet Kumar and Iqbal Ahmed were examined on similar lines. On the other hand, Respondent No.1, attorney of Respondent No.02, appeared in the witness box and produced a registered sale deed, asserting that the suit property had been lawfully purchased by his nephew/Respondent No.02, and therefore, the applicant's claim was baseless, misconceived, and unsupported by any cogent evidence. The learned trial Court also examined the City Surveyor, who confirmed the record of the suit property, and the Sub-Registrar, who verified the relevant registration documents.

5. After completion of the evidence and hearing the learned counsel for the parties, the learned trial Court, upon evaluation of the entire material available on record, dismissed the suit of the applicant through judgment and decree. The applicant thereafter preferred an appeal before the learned appellate Court, which, upon reappraisal of the evidence, concurred with the findings of the trial Court and dismissed the appeal accordingly.

6. Learned counsel for the applicant contended that the suit property was purchased through a verbal and oral settlement, wherein respondent/defendant No.2 was nominated as the purchaser of the property. However, later on, due to his greedy conduct, he denied the applicant's ownership rights. It was further argued that even the original/

previous owners of the property were well aware that the applicant was the actual purchaser who had invested the sale consideration. Learned counsel submitted that the learned trial Court failed to appreciate these material aspects of the case and dismissed the suit without proper consideration of the evidence available on record.

7. Conversely, Mr. Shakeel Ahmed Abro, learned counsel appearing on behalf of the respondents, vehemently opposed the contentions raised by the applicant. He submitted that if the applicant claims to have purchased the suit property from its previous owners, then it was incumbent upon him to examine those original owners before the Court. However, the applicant failed to produce or examine any of the marginal witnesses to the alleged transaction. Learned counsel further submitted that the marginal witnesses, being the original owners of the suit property, had in fact executed the registered sale deed in favour of the respondents, which completely nullifies the applicant's stance. He argued that the applicant's reliance merely on oral assertions, without producing any documentary or financial proof of payment or transfer of consideration, cannot establish any lawful right or title in his favour. Hence, on account of such deficiencies, the applicant has no sustainable claim in law.

8. On the other hand, the learned Assistant Advocate General contended that the present matter is purely of a private dispute, having no public element involved. He further submitted that before the Court below, the revenue authorities had duly affirmed the claim of the respondents and also verified the existence of a registered sale deed in their favour. It was argued that there is no evidence on record indicating that the applicant had ever made any payment or contributed any amount towards the purchase of the suit property. Moreover, the previous or original owners of the property did not make any statement at the time of execution of the sale deed suggesting that any portion of the sale consideration was paid by the applicant. Thus, there is nothing on record to support the applicant's claim of ownership or financial contribution in respect of the suit property.

9. Heard arguments of the learned counsel for the respective parties and perused the material available on record.

10. The case of the applicant/plaintiff is that he invested a substantial amount in the purchase of the suit property, and with mutual consent, the said property was purchased in the name of respondent/defendant No.2. It is further claimed that both the applicant and respondent/defendant No.1 jointly contributed towards the purchase price of the suit property. Conversely, respondent No.1 categorically denied any such investment or sale transaction by the applicant, asserting that the entire purchase was made independently without any financial contribution from the applicant. The applicant further contended that the previous owner of the suit property was fully aware that the purchase was made jointly by the applicant and respondent No.1 in the name of respondent No.2. However, during the course of trial, none of the original owners of the suit property appeared in the witness box to substantiate the applicant's version. The witnesses produced by the applicant also failed to establish that they were present at the time of any sale transaction or payment of consideration, nor could they confirm the alleged investment by the applicant. It was the burden of the applicant to prove, through cogent and reliable evidence, that he had actually invested the amount claimed and that such amount was paid to the original owners or credited in favour of respondent No.2. However, the applicant failed to discharge this burden, as not a single document, receipt, or credible witness was produced to demonstrate that any amount was ever paid or transferred towards the purchase of the suit property on his behalf.

11. In the present case, the applicant has utterly failed to establish his ownership or any legal right, title, or interest in the suit property through credible or admissible evidence. No document in the nature of an indenture, declaration, has been produced to support his assertion of ownership. It is an established principle of law that ownership or title in respect of immovable property cannot be claimed merely on the basis of oral statements unless substantiated by strong and convincing evidence. It is further observed that the applicant neither made any attempt to have the property registered in his name nor produced any cogent evidence to

demonstrate that the sale consideration was ever paid by him to the original owner or deposited in favour of respondent/defendant No.2. The entire case of the applicant rests upon oral assertions and the testimony of witnesses who admittedly were not present at the time of the alleged transaction and who failed to corroborate his claim in any satisfactory manner. Under the settled judicial wisdom, documentary evidence always prevails over oral evidence, particularly in matters relating to title or ownership of immovable property. The burden to prove such ownership squarely lies upon the person who asserts it. The applicant, in the present matter, has failed to discharge this burden. Mere alleged investment without any written acknowledgment, possession or record of transaction does not confer any proprietary rights in law. Reliance may be placed on the case of *Muhammad Darwood v. Mst. Sakeena Farooque alias Aziza and others* (2025 SCMR 1229). Consequently, the claim of the applicant appears to be without legal foundation and cannot be sustained in the eye of law.

12. Moreover, the applicant/plaintiff has also failed to establish or prove any lawful nexus or relationship with the suit property through leading, confidence-inspiring, trustworthy, and independent evidence. The entire claim rests on uncorroborated oral assertions, unsupported by any documentary proof, financial record, or credible witness to affirm that the applicant ever acquired ownership rights or invested any amount towards the purchase of the suit property. In property disputes of such nature, the burden of proof lies heavily upon the person asserting ownership, which the applicant has failed to discharge. Support in this regard is drawn from the authoritative pronouncement in *Rana Muhammad Yameen and another v. Muhammad Jamil (decd.) through L.Rs. and others* (2025 SCMR 860) and *Khurshid Ali and others v. Miangul Adnan Aurangzeb (deceased) through L.Rs. and others* (2025 SCMR 34). In the present case, the applicant/plaintiff having failed to produce any such confidence-inspiring and independent evidence, his claim stands devoid of legal merit and cannot be sustained in the eye of law.

13. The claim of the applicant, insofar as it pertains to the recovery of possession, is also devoid of merit. Even if, for the sake of argument, the matter is viewed from the perspective of a benami transaction, the applicant has utterly failed to fulfill the essential conditions required to establish such a transaction in accordance with law. It is a settled principle that a *benami* transaction can only be recognized when certain foundational facts and circumstances are proved through credible and convincing evidence. The established tests for determining a *benami* transaction include the source of consideration; from whose custody the original title deeds and related documents come in evidence; who is in possession of the suit property; and the motive for entering into the alleged *benami* transaction. In the present case, the applicant has failed to prove any of these essential elements. No evidence has been produced to show that the applicant provided the sale consideration, retained custody of the original title documents, or remained in lawful possession of the property. Likewise, no reasonable or lawful motive has been demonstrated for purchasing the property in the name of respondent/defendant No.2, allegedly as a *benami* holder. Reliance in this respect is placed upon the judgment of the Honourable Supreme Court in *Muhammad Yousaf and others v. Muhammad Ishaq Rana (deceased) through L.Rs. and others* (2023 SCMR 572), similarly, further reliance in case of *Muhammad Nawaz Minhas v. Surriya Sabir Minhas* (2009 SCMR 124) and *Ghulam Rasool v. Nusrat Rasool* (PLD 2008 SC 146). Accordingly, even if the applicant's case is treated as one of *benami* nature, it fails to meet the settled legal criteria and therefore cannot be sustained.

14. In view of the foregoing facts, reasons, and discussion, this Court finds no illegality, irregularity, in the concurrent findings recorded by the learned Courts below, warranting interference in the impugned judgment and decree. The applicant has failed to make out a case to establish his ownership, possession, or any legal right in respect of the suit property. Consequently, the instant Civil Revision Application being devoid of merits stands dismissed. There shall be no order as to costs.

15. These are the detailed reasons of short order dated 16.10.2025.

JUDGE