

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI

**High Court Appeal No.159 of 2022**  
**[Shafaat Hydri & another v. Naila Hydri & another]**

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
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**Present: - Muhammad Shafi Siddiqui, J**  
**Jawad Akbar Sarwana, J**

Hearing case (priority)

1. For orders on office objection/reply at "A".
2. For hearing of main case.
3. For hearing of CMA No.1299/2022 (stay).

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**Dated 31.10.2023**

Mr. Khalid Mehmood Siddiqui, Advocate for the Appellants.

Mr. Shahnawaz Khan, Advocates for Respondent No.1.

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Both the counsels Mr. Khalid Mehmood Siddiqui and Mr. Shahnawaz Khan are heard in the matter. The controversy revolves around a Conveyance Deed which is claimed to be a registered instrument by the appellant, though it is disputed and claimed to be a forged and fictitious by respondent. During trial none of the parties have summoned the concerned Sub-Registrar, before whom it is alleged to have been registered.

The learned single Judge in paragraphs 13, 14 and 18 of the impugned judgment, while deciding the issue No.3, took a presumptive approach that the discrepancies, as identified by him, in the Conveyance Deed, could only lead to a view that it is a forged document. In our understanding, a registered instrument carries a contrary presumption, then as held by learned single Judge, unless it is proved otherwise.

As observed above, the Respondent, who has alleged the document (being registered instrument) to be a forged one, has not summoned the Sub-Registrar, though it is not even summoned by the appellants as being plaintiffs but they only produced the

Conveyance Deed claimed to be a registered one. The Respondent's counsel also submitted that a separate suit has also been filed in the year 2018 by the Respondents with regard to the declaration of the property and perhaps the Conveyance Deed of which he is not sure. In the suit (suit No.882/2013), out of which this appeal has arisen, the issues were framed in the year 2017 and the evidence was recorded later when the Respondent's suit was pending. In all fairness, both the counsel have agreed that recording of evidence of the concerned Sub-Registrar is inevitable to reach to a conclusion regarding the authenticity and registration of the Conveyance Deed, hence the Respondent's counsel has consented that it may be sent back to the learned single Judge for recording of such evidence.

Accordingly, the impugned judgment and decree are set aside and the matter is sent back to the learned single Judge for recording evidence of the concerned Sub-Registrar or any other witness whose evidence is inevitable for proving the Conveyance Deed or otherwise. Parties may request the learned single Judge if the two suits could be disposed off together to avoid multiplicity of proceedings or contrary views. The evidence so recorded in the two suits, that is the instant suit No.882/2013 and the suit filed by the respondents, that is suit No.1805/2018, (if the evidence is being recorded separately), be seen and in consideration of such evidence both suits be disposed off together by a common judgment and/or as deemed fit by court, as agreed.

The instant Appeal is disposed off along with pending application(s) in the above terms.

JUDGE

JUDGE

Ayaz Gul