

IN THE HIGH COURT OF SINDH AT KARACHI

R.A No.04 of 2021

[Syed Ammer Imam Naqviv.....Nasir Khan & others]

Date of Hearing : 11.01.2024
Applicant through : Ms. Saleeha Naeem, Advocate
Respondents through : *Nemo*

ORDER

Zulfiqar Ahmad Khan, J:- This Revision challenges the judgment dated 09.12.2020 passed by IInd Additional District Judge, Karachi East in Civil Appeal No.35 of 2020 as well as the judgment of the trial Court dated 09.01.2020.

2. Counsel's contentions are that the applicant purchased subject property bearing Plot No.R-67, Block-19, Double story consisting of 120 square yards, situated in KDA Scheme No.36, Gulistan-e-Johar, Gulshan Bungalows, Karachi in the sum of Rs.900,000/- lumpsum after going through all the codal formalities including publication in the newspapers by entering into sale agreement dated 17.08.2017. At that juncture, a Power of Attorney was also signed in favour of the applicant through syed Ziaul Hassan Rizvi, seller (father of defendant Nos.2 to 6), but unfortunately the said defendant expired after signing of the Power and since then the property stood in the name of defendant No.1, the earlier owner. To have the properties transferred, the applicant filed Civil Suit bearing No.1812 of 2018 for specific performance, declaration and injunction, which however was dismissed by the trial Court's judgment dated 24.04.2019, wherein *in fact* no one appeared on behalf of defendants to oppose. In all circumstances, per learned counsel, the trial Court ought to have passed *ex parte* decree however Court went into technicalities and passed the impugned judgment, which was maintained by the appellate Court.

3. Heard the counsel and perused the record. It appears that the applicant had taken possession of the subject property after signing of the agreement in the year 2017, as well as he is holding the title documents and there remained no one to file any objection against his claim. *In fact* the respondents have filed no objection to the effect that the property may be transferred in the name of the applicant. Defendant No.1 which later become respondent No.1 has never appeared as he has already sold the property to the applicant's predecessors-in-interest.

4. In the circumstances at hand where there is no objection to the transfer of the property in favour of the applicant and neither there is any rival claim, and where the applicant is in possession of the property along with all original title documents, impugned judgments and decrees are *set aside*. Nazir is directed to have the property transferred in the name of the applicant at the cost of Rs.25,000/- as his fee.

JUDGE

Karachi
Dated: 11.01.2024

B-K Soomro