Judgment Sheet

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Civil Rev. Application No.S-140 of 2021

Applicants	:	Province of Sindh and others through Mr. Ahmed Ali Shahani, AAG
Respondent No.1	:	Syed Nazeer Hussain Shah through M/s. Farooq H. Naik and Mukesh Kumar G. Karara, Advocate
Respondents No.2	:	Quetta Parsi Zoroastrian Anjuman Through Mr. Sardar Ali Shah Jilani, Advocate
Date of hearing	:	06.11. 2023
Date of Decision	:	04.12.2023

J U D G M E N T

ARBAB ALI HAKRO, J.- Through this Civil Revision Application under Section 115, the Civil Procedure Code 1908 ("the Code"), the applicants have impugned judgment and decree dated 27.8.2021 and 02.9.2021 respectively, passed by learned II-Additional District Judge/MCAC, Sukkur ("the appellate Court") in Civil Appeal No.11-A of 2018, whereby; the judgment and decree dated 25.01.2018 passed by learned Ist Senior Civil Judge, Sukkur ("the trial Court") in F.C Suit No.200 of 2013, through which the Suit of Respondent No.1 was dismissed has been set-aside by decreeing his suit.

2. In brief, Respondent No.1 had filed a suit for declaration, mandatory and permanent injunction against Respondent No.2 and the applicants, asserting that the property bearing C.S No.C-484 measuring 2048 sq. Yds, situated in Ward-C, Sukkur City ("suit property"), was owned and possessed by Mst. Ayee Bai and 05 (five) others sold the same through their attorney Seth Jamshedji to Respondent No.2 through registered Sale Deed No.744 dated 10th June 1929, and such record of rights mutated in his favour. Subsequently, the Extract from the Property Register Card in the

name of a newly elected body of Respondent No.2 was also entered. Afterwards, Respondent No.1 purchased the suit property from Respondent No.2 through an Agreement to Sell dated 07.8.2006 for a total Sale consideration of Rs.9.400 Million, and the entire said Sale consideration amount was paid by Respondent No.1, which was duly acknowledged by an authorized nominee of Parsi Anjuman namely Areshir K. Marker. After that, some dispute arose between Respondent No.1 and 2, due to which Respondent No.1 filed a Suit for "*Specific Performance of Contract*" against Respondent No.2. However, compromise took place between Respondent No.1&2 in said suit, consequently compromise decree was passed, whereby the Respondent No.2 was agreed to execute the registered Sale Deed in favour of Respondent No.1. The Respondent No.2 obtained such Sale Certificate from concerned Mukhtiarkar/City Surveyor. Meanwhile, the E.D.O (Rev.) Sukkur initiated *Suo-Moto* proceedings under the Sindh Land Revenue Act 1967, for cancellation of entry dated 16.4.2003, in respect of suit property entered in the name of Respondent No.1 and illegally and unlawfully cancelled the said entry on the plea that suit property belongs to Government vide order dated 28.12.2006. The E.D.O further directed to the Deputy Director of Anti-Corruption (*Establishment*) Sukkur to register a case against the responsible persons. In compliance of that order, the FIR No.07/2008 was registered by the Anti-Corruption Police. The enquiry of the said FIR was conducted by C.O Anti-Corruption Establishment (ACE) Sukkur, who finally concluded that the suit property is not Government property, but is private property owned by Respondent No.2. It is further asserted that Respondent No.2 had also filed C.P No. D-958 of 2008, for quashment of FIR *ibid*, which was finally disposed of vide order dated 23.02.2009, with the specific direction that the Suit property shall remain in the name of Respondent No.2 and its' transfer or mutation will be subject to the Rules and Regulations of Respondent No.2 with due intimation to the concerned department. Thereafter,

Respondent No.2 presented the Sale Deed in favour of Respondent No.1 before the concerned Sub-Registrar regarding the suit property, which was adjourned for want of Sale Certificate from Applicant No.2 and 3. However, they were reluctant to issue a sale certificate due to political pressure, so the sale deed could not be registered. Thus, Respondent No.1 sued before the trial Court by filing a Suit.

3. Upon service of summons, Respondent No.2 and Applicants No.2 & 3 contested the suit and filed their separate written statements. Respondent No.2, in his written statement, admitted the contents of the plaint.

4. Per written statement of Applicant No.2 & 3, the suit property claimed to be entered in the name of the Local Government as per City Survey Record bearing C.S No.484, and Palanji pays Rs.32/09/0 annually to the Government. They further asserted that the suit property was purchased by Seth Manikji and Manshirji for Rs.14,000/- as per R.D No.744 dated 10.6.1929. They further claimed that the entry was kept in the name of Respondent No.2 and others fraudulently, and it was managed on the basis of a false letter dated 21.7.1999, fake entry, a Sale Certificate was issued in the name of Respondent No.2 and others. Subsequently, the said entry was cancelled by E.D.O (Rev.) Sukkur vide order dated 28.12.2006, which was challenged by Respondent No.2 before Member Board of Revenue and same was dismissed vide order dated 27.8.2008. They further asserted that according to order dated 23.02.2009, passed by this Court in C.P, the suit property will remain in the name of Sukkur Parsi Zoroastrian Anjuman, and its transfer or mutation will be subject to proper Rules and regulations and with due intimation to the concerned department. However, Respondent No.2 shown as the President/Secretary of Quetta Parsi Zaorastrain, not the President/Secretary of Sukkur Parsi Zaorastrain Anjuman. They also asserted that neither Respondent No.1 nor Respondent No.2 had applied for a Sale Certificate in respect of suit property nor entry is in the name of Respondent No.2 available in the City Survey record.

5. From the divergent pleadings of the parties, the trial Court formulated the following issues:-

i. *Whether the suit of the plaintiff is not maintainable under the law?*

ii. *Whether the suit property bearing C.S No.C-484 admeasuring 2048 Sq. Yds situated in Ward-C Sukkur was owned by M/S Sukkur Parsi Anjuman vide registered Sale Deed?*

iii. *Whether Sukkur Parsi reconstituted in the name and style of Quetta Sukkur Zoroastrian Parsi Anjuman (generally referred to as Quetta Parsi Anjuman)?*

iv. *Whether the suit property was sold out in favour of plaintiff by Quetta Parsi Anjuman vide Sale Agreement dated 07.8.2006 and thereafter executed a Sale Deed dated 17.11.2011, before the Sub-Registrar, Sukkur?*

v. *Whether withholding of sale deed by the Sub-Registrar Sukkur on the ground of non-issuing of sale certificate is legal and in accordance with Registration Rules?*

vi. *Whether the act of defendant No.2 & 3 for not issuing Sale Certificate and Extract from Property Register Card in favour of the defendant No.1 is in accordance with law?*

vii. *Whether the plaintiff is entitled for the relief claimed?*

viii. *What should the decree be?*

6. Both parties examined themselves and produced relevant documents supporting their claims. Besides himself, Respondent No.1 also examined one official witness, i.e., Sub-Registrar. On the other hand, Respondent No.2 examined their one Joint Secretary. Applicant No.3 also examined himself. After examining the evidence produced by the parties and hearing their respective submissions, the suit was dismissed.

7. The above Judgment and decree of the trial Court were then impugned by Respondent No.1, before appellate court and the appeal was allowed, and the suit of Respondent No.1 was decreed.

8. At the outset, learned counsel representing the applicants submits that learned Appellate Court has seriously erred by passing impugned judgment and decree without considering material irregularities and has decided the matter in hypothetical manner; that there is serious misreading and non-reading of evidence available on record; that Extract From Property Register Card was issued on 16.04.2003, on the basis of simple letter dated 21.07.1999 in the city survey record, therefore, EDO took suo-moto notice and cancelled such entry on 28.12.2006; that suo-moto was assailed by Respondent No.1 before Member Board of Revenue, which was dismissed; that the suit property is government property and the Respondent No.1 has no right or evidence regarding ownership; that according to Article 117 of Qanoon-e-Shahadat ordinance, 1984, Respondent No.1 was required to prove his claim on the strength of evidence; that suit land is valuable property of Government and the Respondent wants to usurp the same. In the end, learned Counsel for the Applicants has prayed that instant revision application may be allowed by setting aside impugned judgment and decree passed by learned Appellate Court. In support of his contention, learned counsel has relied on the case laws reported as PLD 1993 kar 296,2023 SCMR 1208, 2017 CLC 42, 2016 CLC 1258 and 2020 CLC 365.

9. Conversely, learned counsel representing Respondent No.1 contended that the learned Appellate Court has rightly allowed the appeal and decreed the suit in favour of Respondent No.1, thereby set aside the impugned judgment and decreed passed by the trial Court, that there is no any gross or material irregularity or illegality committed by learned Appellate Court; that scope of Section 115 CPC is very narrow and limited; that learned Appellate Court has rightly reappraised the fact and evidence on record; that order of this Court has attained finality; that learned AAG representing the Applicants failed to pinpoint any illegality or irregularity committed by learned Appellate Court. They prayed for the dismissal of instant revision application. In their arguments, they placed reliance on

the case law reported as 1997 SCMR 1139, 2012 SCMR 508, PLJ 1987 SC 288, 1992 SCMR 786, 1994 SCMR 818, and PLD 1986 SC(AJ&K) 65.

10. Learned Counsel for the Respondent No.2, while adopting the arguments of learned counsel for the Respondent No.1.

11. The arguments have been heard at length, and the available record has been carefully evaluated with the able assistance of the learned counsel for the parties, including case law relied upon by them. To evaluate whether justice has been dispensed, it is imperative to analyze the findings of both the Courts below.

12. Before I deep dive into the case details, it is imperative to have look on the scope of the Revision U/Section 115 of the Code of Civil Procedure, 1908 (The Code) regarding the conflicting opinions of the Courts below.

13. The primary objective of a revisional authority of this Court empowered by Section 115 of the Code is to ensure that no subordinate court acts arbitrarily, illegally, capriciously, irregularly or exceeds its jurisdiction and allows this Court to guarantee the access of justice while ensuring that the proceedings are conducted in accordance with the rule of law and furtherance of fairness. It must be noted that the judges of subordinate courts have the absolute authority to decide on cases. They do not commit any "*jurisdictional error*" even when they wrongfully or extra-judicially decide a case. This Court has the power to revise these jurisdictional errors committed by subordinate courts in the Revisional jurisdiction. It can be *exercised* by this Court when the subordinate court appears to have: -

i) Acted in excess of jurisdiction vested in it by law or

ii) Failed to exercise the jurisdiction vested in it by law, or

iii) Displayed material irregularity and exercised its power illegally or in breach of the provisions of law.

14. In the case of Nasir Ali vs Muhammad Asghar (2022 SCMR 154), the Supreme Court of Pakistan has held as under: -

"*9. It is well settled exposition of law that section 115, C.P.C* ***empowers and mete out the High Court to satisfy and reassure itself that the order of the subordinate court is within its jurisdiction****; the case is one in which the Court ought to exercise jurisdiction and* ***in exercising jurisdiction, the Court has not acted illegally*** *or* ***in breach of some provision of law*** *or* ***with material irregularity*** *or* ***by committing some error of procedure in the course of the trial which affected the ultimate decision****. If the High Court is satisfied that aforesaid principles have not been unheeded or disregarded by the courts below, it has no power to interfere in the conclusion of the subordinate court upon questions of fact or law.* ***The scope of revisional jurisdiction is limited to the extent of misreading or non-reading of evidence, jurisdictional error or an illegality of the nature in the judgment which may have material effect on the result of the case or if the conclusion drawn therein is perverse or conflicting to the law****. Furthermore, the High Court has very limited jurisdiction to interfere in the concurrent conclusions arrived at by the courts below while exercising power under section 115, C.P.C. In the case of Cantonment Board through Executive Officer, Cantt. Board, Rawalpindi v. Ikhlaq Ahmed and others (2014 SCMR 161),* ***this Court held that the provisions of section 115, C.P.C under which a High Court exercises its revisional jurisdiction, confer an exceptional and necessary power intended to secure effective exercise of its superintendence and visitorial powers of correction unhindered by technicalities****. In the case of Atiq-ur-Rehman v. Muhammad Amin (PLD 2006 SC 309), this Court held that the* ***scope of revisional jurisdiction is confined to the extent of misreading or non-reading of evidence, jurisdictional error or an illegality of the nature in the judgment which may have material effect on the result of the case or the conclusion drawn therein is perverse or contrary to the law, but the interference for the mere fact that the appraisal of evidence may suggest another view of the matter is not possible in revisional jurisdiction****. There is a difference between the misreading, non- reading and mis-appreciation of the evidence therefore,* ***the scope of the appellate and revisional jurisdiction must not be confused and care must be taken for interference in revisional jurisdiction only in the cases in which the order passed or a judgment rendered by a subordinate Court is found perverse or suffering from a jurisdictional error or the defect of misreading or non-reading of evidence and the conclusion drawn is contrary to law****. This Court in the case of Sultan Muhammad and another*

> *v. Muhammad Qasim and others (2010 SCMR 1630) held that* ***the concurrent findings of three courts below on a question of fact, if not based on misreading or non-reading of evidence and not suffering from any illegality or material irregularity affecting the merits of the case are not open to question at the revisional stage****."*
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> [Emphasis supplied]

15. Coming back to the controversy of the *lis* suggest, that the claim of the applicants was that the suit property belongs to the Local Government and it was transferred to Sukkur Parsi Anjuman through registered Deed No.744 dated 10.6.1929 on annual rent, with the condition that the suit property is resume-able by the Military department at 24 hours' notice in the event of war. They further claimed that the E.D.O (Rev.) had already cancelled the entry entered in the name of Respondent No.2, and the appeal filed by Respondent No.2 before the Member Board of Revenue was dismissed. The above claim of the applicants was already discussed by the Divisional Bench of this Court in Order dated 23.02.2009, passed in C.P No.D-958 of 2008, filed by the President of Respondent No.2, against the Government officials. Therefore, it is deemed conducive to reproduce said order hereunder: -

> *"After hearing the learned counsel at length and keeping in view record it appears that there is property bearing No.484-C, which was obtained by Sukkur Parsi Zoroastrian Anjuman as according to petitioner's counsel that property was purchased from private party in 1929, which factual position has not been disputed by EDO(Revenue) Sukkur and other officials and respondents present. The issue which is coming on record and as pointed out by the petitioner's counsel that there is no Sukkur Parsi Zoroastrian Anjuman, therefore, this property is being transferred to Quetta Parsi Zoroastrian Anjuman, as Sukkur Anjuman has been taken over by Quetta Anjuman. The EDO states that on the record property appears in the name of Sukkur Parsi Zoroastrian Anjuman and it has incorrectly been transferred to Quetta Anjuman, while Mukhtiarkar has also issued Sale Certificate on the basis of incorrect entry and City Surveyor recorded mutation in the record, therefore, action was initiated and even FIR was registered.*
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> *Learned EDO has pointed-out some order passed by Member Board of Revenue Judicial-I dated 27.8.2008, but*

> *from the record brought today he is not in a position to satisfy as to where is the entry which has been mentioned with the number i.e G.R, RD No.4322/28 dated 08.3.1935, in the above order. Learned EDO further states that despite hectic efforts by the department no resumption of land documents were traced out. We have further noted from the above order that the word "Local Government" has been mentioned in it alongwith year of 1935, while in that period, and according to officials themselves, there was no Local Government. The EDO has further stated that the action in respect of FIR has only been taken as the land was transferred while the Sukkur Anjuman is owner since 1929 as per record.*
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> *In such a situation, after hearing the conclusion in the* ***matter has been simplified to the extent that property No.484-C will remain in the name of Sukkur Parsi Zoroastrian Anjuman and its transfer or mutation will be subject to proper rules and regulations and with due intimation to the concerned departments while I.O of the FIR will submit his report in the FIR keeping in view above factual position as well as on the basis of other factual position which may come on record, to the concerned Court****."*

16. A perusal of the above order reveals that the suit property is the same as that involved in the present case. More so, the plea raised by the applicants in their defence before the Courts below, as well as before this Court, is also the same, which has already been decided in the above Constitutional Petition and said order has not been challenged by the applicants/Government, thus has attained finality. In legal language, "attained finality" refers to the concept that certain disputes must achieve a resolution from which no further appeal may be taken and from which no collateral proceedings may be permitted to disturb that resolution. This principle is crucial because otherwise, there would be no certainty as to the meaning of the law or the outcome of any legal process. The importance of finality is the source of the concept of *res judicata*: the decisions of one court are settled law and may not be retried in another case brought in a different court. It is now well settled that an issue decided against a party, if not challenged, shall attain the finality. Reference may be made to the case of GOVERNMENT OF PAKISTAN

through Secretary, Cabinet Division and another vs Dr. M. AKBAR RAJPUT (2011 SCMR 1298) wherein it has been held that: -

> *"10. The intent and purpose of the afore-referred letters, therefore, was to reinstate the respondent with all back benefits and the interpretation accorded to it by the learned Tribunal in the judgment dated 15-3-2003 is correct as the status quo ante in terms of Black's Law Dictionary means "the situation that existed before some thing else (being discussed) occurred."* ***In any case, the afore-referred judgment attained finality as it was never challenged by the petitioner-government before this Court*** *and any contrary interpretation of a departmental correspondence cannot offset the judicial pronouncement."*
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> [Emphasis added]

17. Another question raised by the learned A.A.G representing the applicants is that the order dated 23.02.2009 passed in C.P No. D-958 of 2008, it was directed that the suit property will remain in the name of "Sukkur Parsi Zoroastrian Anjuman" and its transfer or mutation will be subject to rules and regulations. However, Respondent No.2 is shown as President/Secretary of "Quetta Parsi Zoroastrian Anjuman". This issue is discussed in detail in the impugned judgment by the appellate Court, so it will be helpful to reproduce the relevant findings below: -

> *"The case of the appellant/plaintiff further is that Sukkur Parsi Anjuman was reconstituted in the name and style of "Quetta Sukkur Zoroastrian Parsi Anjuman" and generally referred to as Quetta Parsi Anjuman. The appellant/plaintiff has relied on the respondent/defendant No.1 that the Quetta Parsi Anjuman and Sukkur Parsi Anjuman were merged sometime in early 1950, and since then, the Quetta Parsi Zoroastrian Anjuman, through its office bearers managing the affairs of Sukkur Parsi including the suit property. The respondent/defendant No.1 has admitted this fact of the merger of Sukkur Parsi Anjuman into Quetta Parsi Anjuman, and such fact is also available in rules and regulations produced by the appellant/plaintiff at Ex.31/B which provide the definition of a member of the Association as Parsi Male or Female of the age of 18 years or above residing in Quetta or Sukkur. There is no conflict between the above two Anjumans. From a perusal of the rules, it transpires that these were initially framed on 15.12.1942 and subsequently reframed*

> *on 15.11.2006, and during the intervening period, no objection or complaint has been made against the rules. Even no evidence has been brought on record by the official respondents/defendants that these rules are in conflict with the law. The perusal of the record shows that the rent proceedings were also initiated by respondent/defendant No.1 Quetta Parsi Anjuman against the sitting tenant, which were contested up to the level of Honourable Supreme Court of Pakistan and subsequently suit property was vacated and handed over to respondent/defendant No.1 on the basis of order passed in FRA No.02/1998 and Civil Appeal No.392-K/1993 which have been produced by the appellant/plaintiff in his evidence at Ex.31/G and 31/H. On the basis of such order, it is established that the suit property was managed and looked after by the respondent/defendant No.1 after its merger with Sukkur Parsi Anjuman, and it can safely be said that Sukkur Parsi Anjuman was reconstituted and renamed as Quetta Parsi Zoroastrian Anjuman.*

18. Perusal of the above findings, prima facie, shows that the appellate Court has attended to each and every aspect, including the claim regarding the admission of respondent No.2/defendant, the merger of Sukkur Parsi Anjuman into Quetta Parsi Anjuman and no evidence produced by the applicants either before the trial Court or appellate Court to substantiate their claim that Sukkur Parsi Zoroastrian Anjuman or Quetta Parsi Zoroastrian Anjuman are separate entities.

19. Furthermore, it would be relevant to add here, that the trial Court framed issue No.2 *(whether the suit property bearing C.S No.C-484 measuring 2048 Sq. Yds situated in Ward-C Sukkur was owned by M/S Sukkur Parsi Anjuman vide registered sale deed?).* The trial court, while deciding this issue, held as under: -

> *"The burden of this issue lies on plaintiff. To prove this issue plaintiff produced the registered sale deed showing that suit property is registered in the name of Sukkur Parsi, which was not refuted by defendants. Moreover, evidence of plaintiff on this point neither has been shaken nor any evidence led in rebuttal thereto. Apart from above Mukhtiarkar/City Surveyor admitted in his cross-examination that according to Extract from Property*

> *Register Card at Ex.34/A, Suit property is transferred in the name of Sukkur Parsi, which book is also maintained since 1920. Therefore, from admission of official defendants and documents produced by plaintiff it is quite clear the suit property is registered still in name of Sukkur Parsi, hence issue under discussion is replied accordingly."*

20. Nonetheless, the applicants did not assail the aforementioned findings of the trial Court nor filed the cross objections against the decree of the trial court before the appellate court; hence, the findings of the trial court that is "*the suit property is registered still in the name of Sukkur Parsi*" has attained finality and could not be challenged in the present Revision petition. In this context, reference may be made to the case of Waris vs Muhammad Sarwar (2014 SCMR 1025), wherein Supreme Court of Pakistan has illuminated as under: -

> *"We are, therefore, of the view that finding of the trial Court on issue No.6 reproduced above on the basis of the fact that* ***no cross objections*** *were filed by the appellant before the first appellate Court, cannot be reopened because such finding had attained finality."*
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> *[Emphasis supplied]*

21. Similarly, in the case of Muhammad Aslam and 2 others v. Syed Muhammad Azeem Shah (1996 SCMR 1862), the Supreme Court has observed that: -

> *"The contention was repelled simply on the ground that the* ***learned trial Court decided issue No.1 in favour of the plaintiff/respondent No. l and against the appellants who did not file any cross-objections before the First Appellate Court. They were, therefore, precluded to reagitate*** *this issue in view of judgment of this Court in Kanwal Nain and 3 others v. Fateh Khan and others (PLD 1983 SC 53) wherein it was held that* ***where no cross-objection had been filed before the First Appellate Court to challenge finding on one of the issues involved in the case, the finding on that issue attained finality and was not liable to be re-opened****. Similar view was taken in Khairati and 4 others v. Aleemuddin and another (PLD 1973 SC 295) wherein it was held,* ***it is no doubt true that a respondent can support a decree even on points decided against him, but a respondent cannot attack a decree or ask for its variation without a cross-objection****."*

[Emphasis supplied]

22. Henceforth, once the findings of the trial court regarding the registration of the suit property, the name of Sukkur Parsi has attained finality, the same cannot be called into question in the present Revision petition. In the case of Muhammad Raqeeb v. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and others (2023 SCMR 992), it was discoursed by the Supreme Court of Pakistan that:

> *"The doctrine of finality is primarily focused on a long-lasting and time honored philosophy enshrined in the legal maxim "Interest reipublicae ut sit finis litium" which recapitulates that "in the interest of the society as a whole, the litigation must come to an end" or "it is in the interest of the State that there should be an end to litigation". Finality of judgments culminates the judicial process, proscribing and barring successive appeals or challenging or questioning the judicial decision keeping in view the rigors of the renowned doctrine of res judicata explicated under section 11 of the Code of Civil Procedure, 1908. The Latin maxim "Re judicata pro veritate occipitur" expounds that a judicial decision must be accepted as correct. This doctrine lays down the principle that the controversy flanked by the parties should come to an end and the judgment of the Court should attain finality with sacrosanctity and imperativeness which is necessary to avoid opening the floodgates of litigation. Once a judgment attains finality between the parties it cannot be reopened unless some fraud, mistake or lack of jurisdiction is pleaded and established. The foremost rationale of this doctrine is to uphold the administration of justice and to prevent abuse of process with regard to the litigation turn out to be final and it also nips in the bud the multiplicity of proceedings on the same cause of action. In the case in hand, for all practical purposes, the controversy attained finality and even under the doctrine of past and closed transaction, the controversy cannot be reopened by this Court in the second round of litigation which on the face of it is an abuse of process of the Court".*

23. Moreover, the registered instrument in the name of Respondent No.1 carries the presumption of correctness unless stronger evidence is produced to cast aspersion on its genuineness, as held in the Case of Rasool Bukhsh and another v. Muhammad

Ramzan (2007 SCMR 85), by the Supreme Court that:

> ***"It** is a settled law that the registered document has sanctity attached to it and stronger evidence is required to cast aspersion on its genuineness as law laid down by this Court in Mirza Muhammad Sharif's case NLR 1993 Civil 148". **It was further held by the Supreme Court of Pakistan that: "**It is pertinent to mention here that the registered document is not only binding to the parties in the document but is equally applicable to the 3rd party. See Gosto Beharidas's case AIR 1956 Kalkata 449".*

24. Needless to say, the registered instrument in the name of the Respondent No.1 is not only binding upon the parties to the instruments but is equally applicable to the third party as well including the Applicant. In Case of Abdul Aziz v. Abdul Hameed (Deceased) through L.Rs. (2022 SCMR 842), it was held regarding the validity of the document by the Supreme Court of Pakistan as under: -

> *"We also note that registered document carries presumptions attached to it under Sections 35, 47 and 60 of the Registration Act, 1908 and under Article 90 of the Qanun-e-Shahadat Order, 1984 and the court will presume correctness of the registered document in accordance with the presumptions attached unless the same are disputed or rebutted.*

25. Whereas, in respect of availing remedy by an aspirant by selecting a forum carefully the Supreme Court has emphasised in the Case of Jubilee General Insurance Co. Limited, Karachi v. Ravi Steel Company, Lahore (PLD 2020 SC 324), that:

> *"Even otherwise, it is by now well entrenched in our jurisprudence that **where multiple remedies are available against any order judgement and or decision then it is the prerogative of the suitor to elect and pursue one out of the several hierarchy or channel of remedies**. A suiter having availed and exhausted one of the several hierarchy or channel of remedy, doctrine of constructive res judicata, as discussed above debars him to adopt one after another hierarchy, course or channel of remedies".*

26. In view of above discussion and legal position, the impugned judgment of the appellate Court appears to have considered the

record and the law, and no infirmity in respect thereof has been identified to this Court. It is settled law that reappraisal of evidence was even otherwise undesirable in revisional proceedings. Whereas, the trial court has failed to appreciate the legal and factual aspects of the suit while dismissing the same, *albeit* the appellate Court has rightly decreed through a well-reasoned impugned judgment without committing illegality. It is well settled that in the event of a conflict of judgments, the findings of the appellate Court are to be weighted and respected unless it is floating from the record that such findings are not supported by evidence and suffer from material illegality. Reliance is placed on the case of Rao Abdul Rehman (Deceased) through legal heirs vs Muhammad Afzal (deceased) through legal heirs and others (2023 SCMR 815), wherein Supreme Court of Pakistan has held as under: -

> *"12. In the case of Amjad Ikram v. Mst. Asiya Kausar (2015 SCMR 1), the court held that* ***in case of inconsistency between the Trial Court and the Appellate Court, the findings of the latter must be given preference*** *in the absence of any cogent reason to the contrary as has been held by this court in the judgments reported, as Madan Gopal and 4 others v. Maran Bepari and 3 others (PLD 1969 SC 617) and Muhammad Nawaz through LRs. v. Haji Muhammad Baran Khan through LRs. and others (2013 SCMR 1300)."*

27. For the foregoing reasons, the learned Appellate Court has rightly appreciated the law on the subject and reached at just and right conclusion by allowing the appeal of Respondent No.1 and decreeing his suit. There is no illegality or material irregularity in the impugned judgment, which may warrant the interference of this court in its revisional jurisdiction. Consequently, the instant Revision application is devoid of merits, which is dismissed accordingly. Parties are left to bear their costs.

JUDGE

Faisal Mumtaz/PS