Judgment Sheet

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Civil Rev. Application No. S-89 of 2018

Applicants	:	Muhammad Sharif @ Sharifuddin through His LRs and another, through Mr. Tariq G. Hanif Mangi, Advocate
Respondents No.1 to 4 and 10 to 12	:	Abdul Baseer and others, through Mr. Rashid Ali Sindhu, Advocate
Respondent No.5 to 9	:	Nemo
Date of hearing	:	13.11.2023
Date of Decision	:	15.12.2023

J U D G M E N T

ARBAB ALI HAKRO, J.- Through this Revision Application under Section 115, the Civil Procedure Code 1908 ("the Code"), the applicants have called into question the Judgment and Decree dated 24.02.2018, passed by the Court of Additional District Judge, Ubauro ("the appellate Court") whereby, an appeal preferred by the applicants was dismissed, consequently the order dated 21.3.2017, passed in FC Suit No.121/2015 by Senior Civil Judge, Ubauro ("the trial Court") rejecting the plaint under Order VII Rule 11 of the Code was maintained.

2. The facts, briefly, are that according to the agreement to sell dated 15.5.1998, respondent No.1 agreed to sell agricultural land bearing Block Nos.123/3, 123/3,4, 125/3, 4, 126/4, 139/1 to 4, 140/1 to 4, 141/1,2, 143/1, 144/1, 2, 3, totaling 80-00 Acres, situated in Deh Shadiwalo Taluka Ubauro District Ghotki Sindh ("the suit land"), to the father of the applicants, namely Muhammad Sharif, for a total sale consideration of Rs.2,700,000/-. Wherefrom Rs.1,800,000/- was paid as earnest money by the deceased father of the applicants to

respondent No.1, who also handed over possession of the suit land. The remaining amount of Rs.900,000/- was to be paid on 10.02.1998 at the time of mutation. On 10.02.1998, the father of the applicants arranged the remaining amount of Rs.900,000/- and approached respondent No.1 to receive the remaining amount and mutate the Khata. However, respondent No.1 kept him on hollow promises. Later on, respondent No.1 also received an amount of Rs.800,000/- out of the remaining amount of Rs.900,000/-, leaving only Rs.100,000/- as the balance consideration amount. Despite the father of the applicant continuously approaching respondent No.1 to perform his part of the contract, but he failed. Ultimately, the father of the applicants filed FC Suit No.82 of 2014 on 15.9.2014 against respondent No.1. The said suit was withdrawn by the father of the applicants on the ground of compromise; hence, it was dismissed as withdrawn on 16.12.2014. It is also averred in the plaint that a private *Faisla* was held by Haji Muhammad Afzal Khan Mahar on 10.12.2014, wherein it was decided that out of the total area of the suit land measuring 80-00 Acres, an area of 16-00 Acres should be given to one Jiwan son of Suleman, whereas the remaining 64-00 Acres of the suit land should be mutated in favour of the father of the applicants as agreed/accepted by respondent No.2, who was the attorney of respondent No.1.Later on, the above *Faisla* was disobeyed by respondent No.1 and 2, and respondent No.2 secretly transferred an area of 56-00 Acres out of the suit land to some other persons through Sale Deeds. Hence, the father of the applicants filed another/present suit for Specific Performance, Cancellation and Permanent Injunction.

3. Upon receipt of the summons, respondents No.2 to 4 filed their written statements. Respondents No.10 to 12 also filed their written statements and an application under Order VII Rule 11 of the Code in the second suit for rejection of the plaint. They stated, inter alia, that the first FC Suit No.82 of 2014, filed by the applicant's father, was withdrawn on 16.12.2014 without permission to file a fresh one;

hence, the second suit is not maintainable, so it is also barred by limitation. The applicants contested this application by filing their objections. After hearing both the learned counsel for the parties, the trial Court rejected the plaint vide order dated 21.3.2017. Aggrieved by this order, the applicants preferred an appeal to the appellate court. However, the same was also dismissed vide impugned judgment and decree dated 24.02.2018. The applicants are now challenging the concurrent findings of the two courts below through this instant revision application.

4. At the outset, learned counsel representing the applicants submits that the learned trial Court has seriously erred by passing impugned judgment and decree without considering material irregularities and has decided the matter in a hypothetical manner by rejecting the plaint of suit under Order VII Rule 11 C.P.C, which was later on upheld by learned Appellate Court; that Respondent No.2 managed the execution of sale deed; that there is *Faisla*, which was executed on 10.12.2014, for the specific performance of the agreement, but such aspect of the matter did not take into consideration by learned lower Courts; that learned lower Courts had also wrongly applied the Article 113 of the Limitation Act, 1908 as well as Order XXIII Rule 1 of the Code while passing impugned judgments and decrees in favour of Respondents; that concurrent findings recorded by learned lower Courts are not in consonance of facts and law as well by ignoring the legal position. In the end, learned Counsel for the Applicant has prayed that instant revision application may be allowed by setting aside impugned judgments and decrees passed by both lower Courts. In support of his contention, learned counsel has relied on the case laws reported as 2022 CLC 920, 2023 CLC 1383, 2007 SCMR 945, 1993 SCMR 1686, 2008 CLC 1340, 2017 SCMR 172 and 2020 CLC 1189.

5. Conversely, learned counsel representing Respondents contended that the learned trial Court had rightly rejected the plaint, which was maintained by the learned Appellate Court, that there is no material

irregularity or illegality committed by both Courts below; that the suit was barred by law and Order XIII Rule 1 CPC, provides rejection of plaint; that applicants filed fresh suit after withdrawal of previous one due to compromise; that Article 113 of the Limitation Act, 1908 is very much applicable as the suit was filed beyond stipulated period as it was barred from the statement in the plaint itself, then the court in the absence of any objection is duty bound to reject the plaint. He prayed for the dismissal of instant revision application. He placed reliance on the case reported as 2017 SCMR 2005, 2016 SCMR 1916, 2018 MLD 186, 2018 CLC 912, 2015 CLC 107, 1958 PLD (Dacca) 8, AIR 1965 (Madras) 532 and AIR 1921 Bombay 399.

6. Learned AAG, while supporting the judgments and decrees passed by both lower Courts, has adopted the arguments advanced by learned counsel for the Respondents and submits that learned trial Court has rightly rejected the plaint as it was beyond the period as stipulated under the provisions under Article 113 of the Limitation Act, 1908, which was subsequently maintained by learned Appellate Court; that no gross irregularity or illegality appears in the impugned judgments and decrees. In the end, he submits that the instant revision application, devoid of merit, is liable to be dismissed.

7. The contentions have been fastidiously scrutinised, and the accessible record has been carefully assessed.

8. To ascertain whether an adequate and comprehensive dispensation of justice was achieved, it is imperative to analyse the findings concurrently documented by the Courts below.

9. Upon examining the case record, it appears that the first suit, No.82 of 2014, was filed by the applicant's father on 15.9.2014. This suit was based on an agreement to sell, dated 15.5.1998, which was purportedly executed between respondent No.1 and the applicant's father. However, this first suit was later withdrawn by the applicant's

father due to a compromise, and as a result, it was dismissed as withdrawn per the order dated 16.12.2014. The second suit was filed by the applicant's father on 13.6.2015. In this suit, a request was added for the cancellation of the registered Sale Deed dated 15.10.2014, executed in favour of respondents No.3 and 4. This suit is filed on the same “cause of action” as the first and further relied on a private *'Faisla'* that allegedly occurred between the applicant's father and respondents No.1 to 4 respectively.

10. The applicant's father filed the second suit on 13.6.2015. The cause of action in the plaint was stated to have accrued to him when he discovered that respondent No.2 had managed the execution of a Sale Deed of 56-00 Acres in favour of other purchasers. He also based the alleged private *Faisla* on his request for the specific performance of the agreement and the cancellation of the sale deed, executed on 22.10.2014. For both these grievances, the prescribed period of availing remedy the time limit stipulated three years, only, under Article 113 & Article 91 of the First Schedule of Limitation Act, 1908 ("The Act"). For the sake of convenience, both the above Articles are reproduced below: -

Description of suit	Period of limitation	Time from which period begins to run
1	2	3
113. For specific performance of a contract.	[Three years]	The date fixed for the performance, or, if no such date is fixed, when the plaintiff has notice that performance is refused.

.....

91. To cancel or set aside an instrument not otherwise provided for.	[Three years]	When the facts entitling the plaintiff to have the instrument cancelled or set aside became known to him.

Article 113 of the Act provides three years of limitation for instituting a suit seeking specific performance of an agreement to sell from the date fixed for the performance or if no such date is fixed when the plaintiff has noticed that performance is refused. According

to the terms and conditions of the Agreement to Sell dated 15.5.1998, the remaining amount of Rs.900,000/- was to be paid by the applicants' father on 10.02.1999. Subsequently, respondent No.1 would mutate the Khata in his favour. Thus, it is clear that the date for performance in the Agreement to Sell was set as 10.2.1999. The first suit was instituted on 15.9.2014, which was undoubtedly hopelessly time-barred beyond the three years prescribed under Article 113 of the Act. Consequently, the second suit is also deemed to be time-barred under Articles 113 and 91 of the Act.

11. In the case of Haji Abdul Karim and others versus Messrs. Florida Builders (Pvt.) Ltd (PLD 2012 SC 247), the Supreme Court of Pakistan, in the process of examining the legislative evolution of Article 113 of the Act and clarifying its significance and implications made a ruling that: -

> *"Thus now the three years period mentioned in Column No. 3 of the Article runs in two parts: --*
>
> *(i) from the date fixed for the performance; or*
>
> *(ii) where no such date is fixed when the plaintiff has notice that performance is refused.*
>
> *The reason for the said change, as stated above, is obvious.* ***In the first part, the date is certain, it is fixed by the parties, being conscious and aware of the mandate of law i. e. Article 113, with the intention that the time for the specific performance suit should run therefrom. And so the time shall run forthwith from that date, irrespective and notwithstanding there being a default, lapse or inability on part of either party to the contract to perform his/its obligation in relation thereto****. The object and rationale of enforcing the first part is to exclude and eliminate the element of resolving the factual controversy which may arise in a case pertaining to the proof or otherwise of the notice of denial and the time thereof.* ***In the second part, the date is not certain and so the date of refusal of the performance is the only basis for computation of time. These two parts of Article 113 are altogether independent and segregated in nature and are meant to cater two different sorts of specific performance claims, in relation to the limitation attracted to those.*** *A case squarely falling within the ambit of the first part cannot be adjudged or considered on the touchstone of the second part, notwithstanding any set of facts mentioned in the plaint to bring the case within the purview of the later part. In other words, as has been held in the judgments*

> *reported as Siraj Din and others v. Mst. Khurshid Begum, and others (2007 SCMR 1792) and Ghulam Nabi and others v. Seth Muhammad Yaqub and others (PLD 1983 SC 344) "when the case falls within first clause the second clause is not to be resorted to ".*
>
> [Emphasis supplied]

12. The Supreme Court of Pakistan, in the case of Muhammad Ramzan v. Muhammad Qasim (2011 SCMR 249), ruled that even if a contract specifies a month rather than a specific date, it is considered a "date fixed". The limitation period begins at the end of the specified month.

13. In the case of Haji Abdul Karim (supra), the Supreme Court of Pakistan has further held that:

> *"We have examined the plaint on the touchstone of the above criteria and find that from the admittedly executed agreement between the parties, which is the document sued upon and the entire case of the petitioners is structured thereupon,* ***it postulates a 'date fixed' for the performance thereof and no case for the exemption, the enlargement and the exclusion of period of limitation has been set out, in the plaint as per Order VII, Rule 6, CPC therefore, the suit undoubtedly appeared from the statement in the plaint to be barred by the limitation*** *and has been rightly rejected by the Courts."*

14. Moreover, according to Section 9 of the Act, once the time has begun to run, no subsequent disability or inability to sue can stop it from running. This applies to a person himself and his representatives-in-interest after his death. It means that once the limitation period has started, it cannot be stopped by any subsequent disability or inability. This is a fundamental principle of the Act. The Supreme Court of Pakistan, in the case of Syed Athar Hussain Shah vs Haji Muhammad Riaz and another(2022 SCMR 778), has been held as under: -

> *"10. The petitioner's* ***conduct in filing the first suit, not paying requisite court fee, which resulted in the rejection of the plaint, filing the second suit, withdrawing it, and then filing the third suit is inexplicable****. However, what requires determination is whether the third suit was filed within the prescribed period of limitation.* ***It needs consideration whether, once the period of limitation commences, it can be stopped or be avoided by introducing***

another cause of action or relief in the suit or by reformulating them. *The answer is provided by section 9 of the Limitation Act, 1908, reproduced hereunder:*

'9. Continuous running of time: Where once time has begun to run, no subsequent disability or inability to sue stops it.'

The rejection of plaint in the first suit and the withdrawal of the second suit would not help avoid the period of limitation as is made clear from Rule 2 of Order XXIII of the Code, reproduced here:

'2. Limitation law not affected by first suit.

In any fresh suit instituted on permission granted under the last preceding rule, the plaintiff shall be bound by the law of limitation in the same manner as if the first suit had not been instituted.'

11. We now proceed to consider the applicable period of limitation. The first suit had sought the specific performance of the agreement and the second suit also the cancellation of the sale deed. For both these causes of action the prescribed period of limitation is three years as respectively provided under Article 113 and Article 91 of the First Schedule of the Limitation Act, 1908. The petitioner's third suit had sought the specific performance of the agreement, the cancellation of the sale deed, which was executed when there was no suit pending, and a declaration with regard to the ownership of the land. The third suit was filed after three years and was time-barred with regard to seeking the specific performance of the agreement and for the cancellation of the sale deed. We are now left to consider whether the third suit was saved because it had also sought a declaration of ownership of the land as submitted by the petitioner's learned counsel for which Article 120 prescribes six years period of limitation. The Privy Council, in the case of Janki Kunwar v. Ajit Singh[7]*, held that the substance of the relief has to be seen, and if a relief is added for which there is a longer period of limitation, it would not save the suit. That was a case in which the plaintiff had added the relief of possession of immovable property, which had 12 year's limitation, to the relief of setting aside a deed of sale, for which the period of limitation was three years under Article 91. In Muhammad Javaid v. Rashid Arshad*[8] *this Court held that, 'If the main relief is time barred and the bar is not surmounted by the respondent, the incidental and consequential relief has to go away along with it and the suit is liable to be dismissed on account of being time barred'*[9]*. An examination of the petitioner's plaint makes it clear that the petitioner had primarily sought the specific performance of the agreement, then the cancellation of the sale deed and had added the declaratory relief to primarily save the third suit from the consequence of having been filed beyond the period of limitation."*

15. Now, coming to the alleged private *"Faisla"* annexed with the plaint shows that it was held on 10.12.2014. For attracting Section 19 of the Act, first, it would be conducive to reproduce it here under: -

> ***"19. Effect of acknowledgement in writing.*** *(1) Where, before the expiration of the period prescribed for a suit or application in respect of any property or right, an acknowledgement of liability in respect of such property or right has been made in writing signed by the party against whom such property or right is claimed, or by some person through whom he derives title or liability, a fresh period of limitation shall be computed from the time when the acknowledgement was so signed.*
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> *(2) Where the writing containing the acknowledgement is undated, oral evidence may be given of the time when it was signed, but subject to the provision of the Evidence Act, 1872, the oral evidence of its contents shall not be received.*
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> ***Explanation I.*** *For the purposes of this section an acknowledgement may be sufficient through it omits to specify the exact nature of the property or right, or avers that the time for payment, delivery performance or enjoyment has not yet come, or is accompanied by a refusal to pay, deliver, deform or permit to enjoy, or is coupled with a claim a to set-off, or is addressed to a person other than the person entitled to the property or might.*
>
> ***Explanation II.*** *For the purposes of this section, "signed" means signed either personally or by an agent duly authorised in this behalf.*
>
> ***Explanation III.*** *For the purposes of this section, an application for the execution of a decree or order is an application in respect of a right.*

16. The bare reading above Article 19 ibid provides that where, prior to the expiry of the period of limitation prescribed for bringing an action under the Act, there is an acknowledgement of liability, made in writing and signed by the party against whom the claim is made, a fresh period of limitation will start from the date of such acknowledgement. It means that if a party acknowledges their liability in writing before the limitation period expires, the clock of the limitation period resets and starts anew from the date of the acknowledgement. This applies to any property or right claimed. It is important to note that the acknowledgement must be signed by the party against whom the property or right is claimed or by some

person through whom they derive title or liability. A careful perusal of the alleged private "*Faisla*" shows that it was not signed by either party. On the contrary, it only bears the signature of the local community leader/Nek-mard. Thus, it cannot be said to be an acknowledgement in writing. In this context, it has also been held by the Supreme Court of Pakistan in the case of Haji Abdul Karim (supra), as follows: -

> *"However, the exemption, the exclusion and the enlargement from/of the period of limitation in the cases of first part is permissible, but it is restricted only if there is a change in the date fixed by the parties or such date is dispensed with by them, but through an express agreement; by resorting to the novation of the agreement or through an acknowledgment within the purview of section 19 of the Act. And/or if the exemption etc. is provided and available under any other provision of the Act however, to claim such an exemption etc. grounds have to be clearly set out in the plaint in terms of Order VII Rule 6, CPC. We have examined the present case on the criteria laid down above, and find that according to the admitted agreement between the parties, 31-12-1997 was/is the 'date fixed' between them for the performance of the agreement, which has not been shown or even averred in the plaint to have been changed or dispensed with by the parties vide any subsequent express agreement. In this behalf, it may be pertinent to mention here that during the course of hearing Mr. Abdul Hafeez Pirzada, on a court query, has stated that there is no agreement in writing between the parties which would extend/dispense the date fixed and that he also is not pressing into service the rule of novation of the contract. We have also noticed that the petitioners have neither alleged any acknowledgment in terms of Article 19 of the Act, which should necessarily be in writing, and made within the original period of limitation nor any such acknowledgment has been pleaded in the plaint or placed on the record. Besides, no case for the exemption etc. has been set-forth in the plaint and the requisite grounds are conspicuously missing in this behalf as is mandated by Order VII, Rule 6, CPC."*

17. So far, the principle of novation of contract, as provided under Section 62 of the Contract Act, 1872, is essentially about the substitution of a new contract in place of an old one. The key points of this principle are:

Substitution of a new contract: The parties to a contract agree to substitute a new contract for it.

Rescission of the contract: The parties to a contract agree to rescind or cancel it.

Alteration of the contract: The parties to a contract agree to alter it.

18. In all these situations, the original contract does not need to be executed. This means that once the new contract is in place, the obligations under the old contract are discharged. It is important to note that all parties involved must agree to these changes. If any party does not agree, the original contract remains in force. This principle allows for flexibility in contractual relationships, enabling parties to adapt their agreements to changing circumstances or needs. Even in this case, the alleged *"Faisla"* does not meet the criteria outlined in Section 62 of the Contract Act 1872.

19. The Supreme Court of Pakistan has recently provided a detailed explanation of the doctrine of "novation" outlined in Section 62 ibid. It was done in the case of Muhammad Iftikhar Abbasi vs. Mst. Naheed Begum and others (2022 SCMR 1074). Therefore, it is crucial to present the relevant findings from this case hereunder: -

> *"6. The doctrine of novation is decipherable and acclimatised under section 62 of the Contract Act, 1872 which elucidates and explicates that if the parties to a contract come to an understanding to surrogate a new contract or to rescind or alter it, the original contract need not be performed. The word novation practically and rationally denotes to substitute with a new contract where the obligations under the existing contract bring to an end or extinguished.* ***Prerequisites and rudiments of Section 62 of the Contract Act are consensus ad idem amongst the parties; there must be a previous contract between the same parties; recession or alteration of a contract for a new contract and termination of the original contract. This can be done where the obligation under a contract is replaced with a new one or where a party is replaced by another party and if the terms of the contract provides for the replacement of one party to the contract by another party, this creates an obligation for such party in place of another party and new party assumes all the obligations under that contract. If a new contract is subsequently substituted for an existing one, it would only way be to adjust the remedial rights arising out of the breach of the old contract.*** *The chronicle and etymology of the word "**novation**" reveals that it was borrowed from Latin word novation,*

novatioornovare to make new, renew and replace an existing legal obligation with a new one. Ref: https://www.merriam-webster.com. According to traditional ***meaning of novatio or novation in English (with some legal use of this Latin concept in England and the United States), the substitution of a new debt or obligation for an old one, which latter is thereby extinguished****. It is novation if either the debtor, creditor or the obligation be changed. Ref: 137 N. Y. 542; Robinson's Elementary Law Revised edition, 294. https://legaldictionary.lawin.org.According to Black's Law Dictionary, 2nd Edition: Novation is the substitution of a new debt or obligation for an existing one. Civ. Code Cal. § 1530; Civ. Code Dak. § 863; Hard v. Burton, 62 Vt. 314, 20 Atl. 269; McCartney v. Kipp, 171 Pa. 644, 33 Atl. 233; McDonnell v. Alabama Gold L. Ins. Co., 85 Ala. 401, 5 South. 120; Shafer's Appeal, 99 Pa. 246. Novation is a contract, consisting of two stipulations, one to extinguish an existing obligation; the other to substitute a new one in its place. Civ. Code La. art 2185. The term was originally a technical term of the civil law, but is now in very general use in English and American jurisprudence.* ***In the civil law, there are three kinds of novation: (1) Where the debtor and creditor remain the same, but a new debt takes the place of the old one; (2) where the debt remains the same, but a new debtor is substituted; (3) where the debt and debtor remain, but a new creditor is substituted.*** *Adams v. Power, 48 Miss. 451. Ref: https://openjurist.org. Along the lines of "Cheshire and Pifoot's Law of Contract" (Ninth Edition), Novation is a transaction by which, with the consent of all the parties concerned, a new contract is substituted for one that has already been made. The new contract may be between the original parties, e.g., where a written agreement is later incorporated in a deed; or between different parties, e.g., where a new person is substituted for the original debtor or creditor. Whereas Lindley on the Law of Partnership (Thirteenth Edition), delineates this doctrine as a liability which is originally joint, or joint and several, may be extinguished by being replaced by a liability of a different nature; and this may happen in one of two ways, viz., either by an agreement to that effect come to between the parties liable and the person to whom they are liable, or by virtue of the doctrine of merger, independently of any such agreement. Sometimes called novation (see Commercial Bank of Tasmania v. Jones [1893] AC 313, 316). In the case of Mussarat Shaukat Ali v. Mrs. Safia Khatoon and others (1994 SCMR 2189), the court held that section 62 of the Contract Act deals with the effect of novation, rescission and alteration of contract. The above provisions make it clear that if the parties to the contract agree to substitute a new contract in place of the original one, then the original contract need not be performed. Therefore, performance of original agreement between the parties is dispensed with only where the parties to the contract agree to substitute the original contract by a new contract. Whereas the court in the case of Benjamin Scarf v. Alfred George Jardine ((1882) 7 AC 345) (HOL), held that in the court of first instance the case was treated really as one of what is called "novation," the term being derived from the civil law that there being a contract in existence, some new contract is substituted for it, either between the same parties (for that might*

> *be) or between different parties, the consideration mutually being the discharge of the old contract. In the case of Lata Construction and others v. Dr. Ramesh Chandra Ramniklal Shah and another (AIR 2000 SC 380), the court held that one of the essential requirements of "novation" as contemplated by section 62 is that there should be complete substitution of a new contract in place of the old. Substitution of a new contract in place of the old contract which would have the effect of rescinding or completely altering the terms of the original contract has to be by agreement between the parties. The substituted contract should rescind or alter or extinguish the previous contract."*

20. As far as the applicants' claim that they are in possession of the suit land is concerned, one of the conditions for applying Section 53-A of the Transfer of Property Act, 1882 is that the contract must not be barred by limitation. It means that the contract must be enforceable within the period prescribed by the LA. If the contract is time-barred, then the transferee cannot claim the benefit of Section 53-A *ibid*, as he has lost his right to sue for specific performance of the contract. In this respect, reference is made to the case of Syed Athar Hussain Shah (Supra), where it has been held as follows: -

> *"12. The petitioner's reliance on section 53-A of the Transfer of Property Act would also not save him from the vicissitude of the period of limitation. Section 53-A does not confer or create a right, and its use is defensive as has been continuously held by this court, including in the in cases of Shamim Akhtar v. Muhammad Rasheed[10], Muhammad Yousaf v. Munawar Hussain[11] and in Amirzada Khan v. Ahmad Noor[12] where this court held, 'it is well-settled principle of law that possession of property obtained in part performance of a contract can only be used by a defendant as a shield in defence of his right and not as a weapon of offence as intended in the present case'[13]. The cases cited by the learned Mr. Chaudhry state as much. In Taj Muhammad v. Yar Muhammad Khan[14] it was held, that 'It is true that section 53-A does not confer or create any right but it provides a defence to a transferee to protect his possession.' And, in Hikmat Khan v. Shamsur Rehman,[15] 'It is true that section 53-A of the Transfer of Property Act cannot be utilised by a person in possession of immovable property under an unregistered document which is compulsorily registrable under the Registration Act, as a weapon of offence to assert his title over the property...'. The linking or combining of section 53-A of the Transfer of Property Act with the petitioner's suit will not benefit him by extending the period of limitation and save the third suit."*

21. The findings of the two competent courts are concurrent and are based on well-established legal principles. The applicants have not been able to identify any legal errors or significant irregularities in the decisions of both courts. It is important to note that the scope of revisional jurisdiction is confined to the circumstances outlined in Section 115 of the Code. The powers of revision are restricted and can only be exercised when the applicant(s) can demonstrate that the contested order or judgment has legal flaws, as defined in Section 115 of the Code. The revisional jurisdiction can only be invoked if a clear illegality is evident in the record. The applicants have not pointed out any jurisdictional defect or significant irregularity in the challenged judgment/order.

22. For the foregoing reasons, learned counsel for the applicants has not been able to point out any illegality or irregularity committed by the two Courts below while passing impugned Judgment and Order, which are found by this court to be correct and in accordance with the relevant law on the subject; thus, the same are maintained and upheld. Consequently, the instant Revision application is devoid of merits, which is accordingly dismissed.

JUDGE

Faisal Mumtaz/PS