

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Special High Court Appeal No.260 of 2015

Bank Alfalah Limited
Versus
Syed Zulfiqar Ali Rizvi and others

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
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Present:
Mr. Justice Muhammad Shafi Siddiqui
Mr. Justice Omar Sial.

Dated 12.03.2024

Mr. Aijaz Hussain Shirazi, Advocate for the Appellant.
Mr. Mubarak Ali Shah, Advocate for the Respondent No.1.
Mr. Irfan Ahmed Memon, Advocate for Respondent No.2.
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Learned counsel for the appellant has impugned a portion of the judgment passed in suit No.B-130/2009 in terms of para-136 which is in relation to a double storey bungalow on Plot No.95, measuring 2000 square yards, Khayaban-e-Ghazi, Phase-VI, DHA, Karachi. Learned single Judge was of the view that the appellant bank has failed to establish creation of any kind of “mortgage” over the property which belonged to the Respondent No.4.

We have heard learned counsel for the parties and perused the material available on record.

In the first instance, learned counsel has taken us to the memorandum confirming deposit of title deed available at page-375. Although this memorandum does not disclose the nomenclature of the property, as the print on the back side of this memorandum is not available, however, in addition to it, there is also a registered mortgage deed in respect of the property, which was executed by one Syed Muhammad Ali Azhar son of Syed Muhammad Azeem/Respondent No.4 in favour of Bank Alfalah Limited, the appellant. These facts are also mentioned in the plaint

in terms of para-5(iii), hence it cannot be conceived that the appellant has not established the mortgage as described and established above.

Thus, we are of the view that in terms of para-136 of the judgment learned single Judge has erred in reaching the conclusion that a charge/mortgage over the property was not established, as it does, in terms of the above understanding and memorandum/ registered mortgage. The appeal to such an extent is allowed.

JUDGE

JUDGE

Ayaz Gul