

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Civil Revision No.S-67 of 2024
(Mst. Siddiqan v. Dhani Bux & others)

Date of Hearing: **14-10-2024**

Date of Decision: **14-10-2024**

Mr. Tariq Gul Mangi, Advocate for Applicant.
Mr. Ateeq-ur Rehman Soomro, Advocate for Respondent No.2.
Mr. Zulfiqar Ali Naich, Assistant A.G-Sindh.

ORDER

Zulfiqar Ahmad Khan J.- This Civil Revision impugns Order dated 22.01.2024, passed by learned appellate Court on Civil Misc. Application No.92 of 2021, where an application under Section 12(2) CPC filed by one Mst. Siddiqan, who claimed to be sister of Qadir Bux through her attorney, namely Abdul Latif, who is in fact also son of Qadir Bux alleged that entitlement of Qadir Bux to sell the property in question being C.S No.4/4, an area measuring 00-04 Ghuntas roughly about 4356 square feet situated in Foji Mohalla City Pano Akil district Sukkur was cancelled and the latter wrongly sold out the said property which was gifted to Qadir Bux through Gift Deed by his father through making a challenge to the concerned Revenue Authorities, on which order dated 29.11.2011, available at page-45, was passed.

2. It is a matter of fact that the subject property already sold out through agreement dated 10.08.2017, for which Suit for Specific Performance was filed by one Muhammad Zaman (respondent No.2), against which, the balance consideration was also deposited by the said respondent in the Court and the appeal against said judgment was also dismissed, which is subject matter of Civil Revision No.S-133 of 2022. It is also a fact that Qadir Bux filed Civil Appeal No.93 of 2021 against Judgment dated 27.04.2021, which was dismissed by the appellate Court by judgment dated 05.08.2022, against which Civil Revision No.S-132 of 2022 is filed.

3. The contention of the counsel for the applicant is that the gift deed in respect of suit land was cancelled through an order dated 29.11.2022, however, perusal of the order itself reflects that the subject order arises of an appeal in respect of cancellation of Khata entries of survey Nos.180/1,

379, 496, 224, 181/1, 497, 498, 39/1, 39/3, 242, 438, 389, 438/3 of Deh Baiji Old and S.No.138 of Deh Baiji New, Taluka Pano Akil district Sukkur, where in fact the subject property is not even included. Counsel states that against order dated 29.11.2011, Appeal was preferred but he has not provided copy of Appeal filed by late Haji in the year 2011, who died roughly about five years ago, at 110 years of age, hence he must be roughly 80 years old, when he moved this application. Present before this Court is his son who is stating that gift of land to his father Qadir Bux was illegal as his grand-father already cancelled the gift and his father illegally sold property, such story is highly questionable, when the father is present himself and has admitted that the sale before the trial Court, not only so he gave no objection in favour of said Muhammad Zaman (the plaintiff).

4. In the circumstances, if there is any fraud committed to the Court that is committed by the present applicant, who seemingly has moved the application under Section 12(2) CPC under shadow of his mother-in-law, who is also a sister of Qadir Bux. Not only so, the appropriate forum to file said 12(2) CPC application was before the concerned trial Court which forum he surpassed and went straight to the appellate Court, which has rightly dismissed 12(2) CPC application. In the circumstances, impugned order is maintained as there is no illegality found therein and instant Civil Revision Application along with listed application(s) is **dismissed**.

J U D G E

Ahmad