

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Civil Revision No. S – 67 of 2015
(Abdul Habib vs. Shaharyar)

Date of hearing : **04.10.2024**
Date of decision : **04.10.2024**

Mr. Manoj Kumar Tejwani, Advocate for respondent

ORDER

Zulfiqar Ahmad Khan, J.– None present for the applicant, whereas, perusal of order dated 29.05.2023 reflects that his earlier Counsel Mr. Faisal Naseem moved an application for discharge of his *vakalatnama*, his such application was allowed and office was directed to issue notice directly to the legal-heirs of the deceased, who has direct dependency to this Civil Revision Application. Office issued notice directly to the applicant at their address in Karachi as well as through learned District Judge (East), Karachi, who has chosen to remain absent.

2. This Civil Revision Application has arisen against the concurrent findings of the two Courts below, where the Suit filed by the applicant for Recovery of Rs.18,45,000/-, where it was dismissed after a detailed judgment relying on the report of hand writing expert. The appeal against such judgment is also dismissed vide impugned judgment dated 22.06.2015. The findings of the Appellate Court are reproduced hereunder;-

“The appellant/plaintiff in his cross-examination stated that agreement and Kirayanama was written by Abdul Qadir while his witness, namely Asif Iqbal in his cross-examination stated that both documents were written by Sheharyar himself.

The appellant/plaintiff in his cross-examination stated that he has not seen the title documents of disputed property at the time of purchase. The appellant/plaintiff in his examination-in-chief stated that in the month of November, 1996, it came to his knowledge that property in question is not transferable. That it is highly impossible that without verifying the title document the appellant paid huge amount Rs.13,50,000/- to defendant although, it is evident that appellant/plaintiff is income tax adviser

since 1969. In a case law reported in 2012 CLC 1944, it was held 'Purchaser must inquire about title of his vendor and then enter into any transaction with him'.

The appellant deposed that witness Abdul Qadir is his cousin and witness Asif Iqbal is also his relative and working with him as his junior for the last (20) years. The witness Asif Iqbal deposed that witness Abdul Qadir has expired about 4/5 years back. The appellant/plaintiff has neither produced the death certificate of witness Abdul Qadir nor examined any family members of said Abdul Qadir for verification of signature of Abdul Qadir. Admittedly, appellant/plaintiff succeeded to examine his relative/junior Asif Iqbal only in support of his claim. In a case law reported in 2006 SCMR 690, it was held 'real son of the plaintiff who was one of the marginal witness was produced as witness in trial court by the plaintiff. Statement of the witness not finding corroboration from any independent source. Plaintiff failed to produce cogent, concrete and worthy of credence evidence to prove the execution of sale.'

The appellant in his cross-examination stated that the transaction of disputed property was finalized at Sukkur within (02) days. It is pertinent to mention here that the sale agreement and rent agreement are on white papers, although it is admitted fact that at Sukkur there are several stamp vendors and notary public.

In the light of above circumstances, I do not find any merits to the instant civil appeal; therefore, the same is hereby dismissed, with no order as to costs."

3. I have an opportunity to go through both the judgments particularly the impugned judgment and I do not find any fatal, patent illegality in the impugned judgment to satisfy the requisition of Section 115 CPC. In these circumstances, this Civil Revision Application, which is also not attended by the applicant, is dismissed.

Judge