

Judgment sheet

IN THE HIGH COURT OF SINDH AT KARACHI

Civil Revision Application No. 91 of 2023

Present

Mr. Justice Muhammad Jaffer Raza

Muhammad Shabbir Qadri Applicant.

Versus

Abdul Sattar Respondent.

Mr. Muhammad Arshad Mughal, Advocate for the Applicant.

Ms. Rafat Mobeen, Advocate for the Respondent.

Date of Hearing: 29.04.2025.

Date of announcement: 09.05.2025

J U D G M E N T

MUHAMMAD JAFFER RAZA – J: The instant Revision Application has been filed against the judgment and decree dated 16.08.2023 passed in Civil Appeal No.33/2023 whereby the above-mentioned Civil Appeal was dismissed.

2. Brief facts of the case are that the Respondent has filed Suit No.167/2021 for specific performance, cancellation and damages with the following prayers:

- “i. Direct the Defendant to specifically perform the sale agreement dated 11.06.2020 by paying the balance amount of Rs.300,000/- (three lac) to Plaintiff.
- ii. Cancel the subsequent sale agreement dated 03.10.2020, fraudulently prepared by the Defendant in the presence of actual sale agreement dated 11.06.2020, in order to deprive the Plaintiff from the balance amount of Rs.300,000/- (three lac).
- iii. Direct the Defendant to pay damages to the tune of Rs.100,000/- (one lac) on account of delay, mental torture, harassment and putting undue pressure upon the Plaintiff.
- iv. Cost of the suit.
- v. Any other relief which this honorable Court deems fit and proper may be granted to the Plaintiff.

3. Thereafter, the above suit of the Respondent was decreed vide judgment and decree dated 03.02.2023, which was impugned in the above-mentioned Civil Appeal and the same was dismissed vide impugned judgment. The learned counsel for the Applicant has impugned the concurrent findings of the courts below.

4. Learned counsel for the Applicant has stated that the concurrent findings of the learned Courts below are perverse and no amount is owed to the Respondent. He has stated that the decretal amount of Rs.300,000/- is not payable to the Respondent as full and final payment has already been made by him. Learned counsel has further stated that vide agreement dated 03.10.2020 the entire amount payable to the Respondent has been paid and the Respondent has not discharged his burden of proof.

5. Conversely learned counsel for the Respondent has argued that there are concurrent findings of the learned Courts below which do not require any interference by this Court. Learned counsel has further stated that the entire payment was not made to the Respondent and subsequent agreement dated 03.10.2020 is a fake and fabricated document. Learned counsel for the Respondent has placed reliance in this regard to the agreement dated 11.06.2020. Learned counsel for the Respondent invited my attention to the cross-examination of the Respondent and the Applicant and has stated that both the judgments of the learned Courts below are legally sound and no case for interference is made out in Revisional Jurisdiction. Learned counsel has relied upon the cases of *Hafiz Tassaduq Hussain V. Muhammad Din through Legal Heirs and others*¹ and *Khudadad Vs. Syed Ghazanfar Ali Shab alias S. Inaam Hussain and others*².

6. I have heard the learned counsels and perused the record. The entire controversy between the parties is the alleged non-payment of the balance amount of Rs.300,000/- (Rupees three hundred thousand only) by the Applicant. The two agreements (one of them being disputed) revolved around the goodwill rights in the suit property. I am in agreement with the findings of the learned Courts below

¹ PLD 2011 SC 241

² 2022 SCMR 933

that the burden was on the Applicant to prove that the subsequent agreement dated 03.10.2020 was executed between the parties and entire payment was made by the said Applicant, for the reason that it was the Applicant who placed reliance on the above-mentioned agreement which the Respondent, as mentioned above, has clearly denied.

7. I have perused the examination of the parties with the able assistance of learned counsels for the parties and it is clear that the Applicant has failed to discharge his burden. Meanwhile, the Applicant has admitted to the execution of the agreement dated 11.06.2020. Moreover, only one marginal witness namely Muhammad Faisal was examined by the Applicant and the said witness during his cross-examination has admitted that he was an employee of the Applicant. He has further admitted that he has no knowledge about the transaction of sale and purchase between the parties. It is therefore held that there was no burden on the Respondent to establish the agreement dated 11.06.2020 as the same was admitted between the parties. Article 113 of the Qanun-e-Shahadat Order, 1984 (**“the Order 1984”**) expounds the age old principle, that facts which are admitted need not be proved. In other words, if a party acknowledges a document as being what it purports to be, the court can rely on that admission without needing to prove the document's authenticity through other means. However, the agreement dated 03.10.2020 relied upon by the learned counsel for the Applicant was required to be proved under the provision of the Order, 1984, as mentioned above, and no independent witness in this regard was examined by the Applicant.

8. In light of aforesaid reasons, I do not see any illegality and infirmity which requires any interference in the orders passed by the Courts below. The instant Revision Application is devoid of merits and therefore the same is dismissed with no order as to costs.

J U D G E