

**HIGH COURT OF SINDH CIRCUIT COURT**  
**MIRPURKHAS**

**Civil Revision Application No.S-22 of 2025**

Applicant: Mst. Noor Bibi wd/o Syed Saleh Shah  
Through Mian Taj Muhammad Keerio, Advocate.

Respondents: 1. Province of Sindh through Secretary,  
Board of Revenue Hyderabad.  
2. Syed Munawar Ali Shah s/o Syed Ali Shah.  
3. Mst. Shehana Bibi d/o Syed Ali.  
Respondent No.3, through Mr. Imtiaz Ali  
Abbasi advocate.  
4. The Deputy Commissioner, Sanghar.  
5. The Assistant Commissioner Taluka Khipro.  
6. The Mukhtiarkar Revenue  
Taluka Khipro, District Sanghar.  
7. The Tapedar, Deh Khipro.  
8. The Superintendent of City  
City Survey Office, Khipro.  
9. The SHO P.S Khipro  
Official respondents through Mr. Muhammad  
Sharif Solangi, A.A.G.

**Civil Revision Application No.S-37 of 2025**

Applicant: Mst. Shehana Bibi d/o Syed Ali Shah  
Through Mr. Farhan Ahmed Bozdar, Advocate.

Respondents: 1. Syed Munawar Ali Shah s/o Haji Ali Shah.  
2. The Assistant Commissioner Taluka Khipro.  
3. The Mukhtiarkar Revenue  
Khipro, District Sanghar.  
4. Province of Sindh through Secretary Revenue  
Government of Sindh Shahbaz Building,  
Hyderabad.  
Official respondents through Mr. Muhammad  
Sharif Solangi, A.A.G.  
  
5. Noor Bibi wd/o Syed Saleh Shah  
In person.

Date of hearing: 01.10.2025 & 07.10.2025

Date of Order: 09.10.2025.

**ORDER**

**AMJAD ALI SAHITO, J.-** By this single Order, I intend to dispose of above-mentioned both Civil Revision Applications, which were filed against the same judgment and decree dated 12-02-2025

passed by learned Additional District Judge, Khipro in Civil Appeal No.22/2024 (Re. Mst. Noor Bibi vs. P.O Sindh and others) and Civil Appeal No.23/2024 (Re. Mst. Noor Bibi vs. P.O Sindh and others) whereby Civil Appeal No.22/2024 was allowed while Civil Appeal No.23/2024 was dismissed; consequently impugned judgment and decree dated.08-03-2024 passed in consolidated suits i.e. F.C.Suit No.104/2021 and subsequent F.C.Suit No.21/ 2022 was modified to the extent that leading F.C.Suit No.104/2021 Re-*Mst. Shehana Bibi vs. Syed Munawar Ali Shah and others* was dismissed whereas F.C. Suit No.21/2022 Re-*Mst. Noor Bibi vs. Syed Munawar Ali Shah and others* was also dismissed while the remaining findings of learned trial court with regard to dismissal of suit in consolidated judgment and decree were maintained, hence these Revision applications.

2. Brief facts of the leading suit i.e. **F.C.Suit No.104/ 2021 filed by applicant/ plaintiff Mst. Shehana Bibi** as enumerated in amended plaint are that father of applicant/plaintiff Mst. Shehana Bibi and respondent/defendant No.1 Syed Munawar Ali Shah namely Syed Ali Shah was the sole, absolute and exclusive owner of the suit property viz. Plot Nos.6,7,12 and 13 each admeasuring 1350 sq.ft (total admeasuring 5400 sq.ft) situated at Thana Road, Syed Colony, Khipro, District Sanghar, wherein at present there exists a bungalow in which applicant/plaintiff Mst. Shehana Bibi and respondent/ defendant No.1 Syed Munawar Ali Shah are residing. It has been pleaded that her father expired in the month of June, 1985 in a car accident, leaving behind applicant/ plaintiff Mst. Shehana Bibi, respondent/defendant No.1 Syed Munawar Ali Shah and Mst. Pir Bibi as his surviving legal heirs and thereafter Mst. Pir Bibi expired on 06-4-2019 to natural death and her share also devolved upon the applicant/ plaintiff and respondent/ defendant No.1. It has been pleaded that in the year 2000 applicant/ plaintiff Mst. Shehana Bibi enquired from the respondent/ defendant No.1 whether her name has been affected in the Record of Rights by way of *Foti Khata Badal* in respect of the suit property and respondent/defendant replied that he has applied for same.

3. It has been pleaded that in the month of June 2006 the respondents/ defendants informed the applicant/plaintiff and her mother that *Foti Khata Badal* has been affected in the Record of Rights and the applicant/ plaintiff being real sister believed on respondent/ defendant No.1. It has been pleaded that on 06-4-2019 the mother of the applicant/ plaintiff and the respondent/ defendant No.1 also expired and after her death the respondent/ defendant No.1 assured that *Foti Khata Badal* papers have been submitted in the offices of the respondents/ defendant No.2 and 3 and soon the property will be transferred in the name of the applicant/ plaintiff and the respondent/ defendant No.1. It has been pleaded that the applicant/ plaintiff wants to get loan by mortgaging her share involved in the suit property as such on 06-7-2021 she demanded the copies of *Foti Khata Badal* from respondent/ defendant No.1 but the respondent/defendant dogged the applicant/ plaintiff on one pretext to other. It has been pleaded that the applicant/ plaintiff after smelling rat behind the whole exercise she alongwith her attorney approached to the office of the respondent/ defendant No.3 on 25-8-2021 wherefrom she due to utter surprise and dismay came to know that the respondent/ defendant No.1 through fraud and cheating got effected his name in the Record of Rights by way of *Foti Khata Badal* by impersonating himself to be the only legal heir of deceased Ali Shah in respect of the suit Plot No.12 and 13 whereas due to burning of record after the incident crapped up due to assassination of Mohtarma the record of suit plots No.6 and 7 was not available.

4. It has been pleaded that the applicant/ plaintiff on the advice of the respondent/ defendant No.3 approached to the respondent/ defendant No.2 for cancellation of *Foti Khata Badal* entries who verbally told the applicant/ plaintiff to approach Civil Court as the said entries are old and outside the domain of revenue officer so cannot be cancelled; hence she filed suit with the following prayers:-

- a. To declare that the plaintiff and defendant No.1 are the only surviving legal heirs of the late Syed Ali Shah.

- b. To declare that plaintiff is co-owner/co-sharer in the suit property viz. Plot No.6,7,12 and 13 each admeasuring 1350 sq.ft. (total admeasuring 5400 sq.ft) situated at Thana Road, Syed Colony, Khipro, District Sanghar, and the act of the defendant No.1 claiming himself to be sole legal heir of Syed Ali Shah is illegal, unlawful and void ab-initio.
- c. To cancel the Foti Khata Badal entries of Syed Ali Shah in respect of the suit property alongwith all subsequent entries if any being illegal, unlawful and void ab-initio and direct the defendant No.2 and 3 to recast the entries by mentioning the specific share of the plaintiff as per Shariate Muhammadi.
- d. To grant permanent injunction thereby restraining and prohibiting the defendants from selling, transferring, mortgaging, alienating, leasing, creating charge or any third party interest or interfering or dispossessing the plaintiff from the suit property by themselves or through their agent, servants, subordinates, assignees, attorneys, agency etc. directly or indirectly in any manner whatsoever.
- e. Costs of the suit may be saddled upon the defendants.
- f. Any other relief deem fit, just and proper may be awarded in the circumstances of the case.

5. Consequent upon service of summons, the respondent/defendant No.1 filed written statement, meanwhile respondent/defendant Mst. Noor Bibi being applicant/intervener filed application under Order I Rule 10 CPC on 02-12-2021 for adding/inserting her name as necessary party in the suit which was allowed vide order dated 05-1-2022 and the applicant/ plaintiff filed amended title of plaint on 20-1-2022 thereafter, respondent/defendant Mst. Noor Bibi filed written statement. The respondents/ defendants No. 2 to 4 were proceeded exparte vide order dated 09-03-2022.

6. Thereafter on 15-02-2022 respondent/defendant Mst. Noor Bibi filed counter suit No.21/2022 against the applicant/ plaintiff in leading suit, relating to same suit land, thus, vide order dated 02-09-2022, both suits were consolidated, wherein, written statement was filed by the private defendants and official

defendant No.3 whereas official defendants No. 4 to 9 were declared and proceeded ex-parte vide order dated 21-7-2022 recorded in order sheet of F.C. Suit No.21/2022.

7. The respondent/ defendants No.1 Syed Munawar Ali Shah in his written statement to leading suit, termed the contents of plaint as correct and submitted that he has no objection if the suit of the applicant/ plaintiff is decreed as prayed except prayer clause-E.

8. The respondent/ defendant Mst. Noor Bibi in her written-statement to leading suit, termed the contents of plaint as incorrect, false, misleading and twisted hence denied the same vehemently. She further submitted that she is owner of the suit property/plots and claimed that she purchased suit plots No.6 and 7 from Syed Lal Shah and her husband late Syed Saleh Shah through Registered Sale Deed No.84 dated 20-01-2012 which are under her physical possession since its purchase and construction built upon on both plots by her from her own pocket and said plots are also mutated in her favour so also same are entered in Extract Form vide City Survey No.4103, sheet No.16, Chalta No.107, while suit plots No.12 and 13 have been purchased from the respondent/ defendant No.1 through sale-agreement dated 31-5-2007 in presence of witnesses and entire sale amount of Rs.6,00,000/=has been paid to the respondent/ defendant No.1 and she constructed pakka room alongwith Angan/courtyard by spending huge amount of Rs.20,00,000/= (Twenty Lakhs). She further claimed that the applicant/ plaintiff and the respondent/ defendant No.1 cooked up story and filed leading suit with collusion of each other so that they may deprive her from her lawful right with malafide intention and ulterior motives.

9. She further claimed that the applicant/ plaintiff was all along in knowledge regarding change of Foti Khata Badal but she filed false suit at the instance of the respondent/ defendant No.1 in order to get ex-parte decree against her so on coming to know such fact she filed application u/o 1 Rule 10 CPC. She further claimed that applicant/ plaintiff has approached to the Court with unclean hands and not approached to Revenue Forum for

challenging the order passed by Revenue Authority. She further claimed that the respondent/ defendant No.1 got effected the Foti Khata Badal on 10-2-2006 as transpires from revenue entry of suit property/plot No.12 and 13 so suit of the applicant/ plaintiff for declaration is hopelessly time barred. She reiterated that the applicant/ plaintiff has no cause of action to file present suit. She challenged the maintainability of leading suit under Section 42 of Specific Relief Act, 1877 and Law of Limitation and accordingly prayed for dismissal of leading suit and also prayed for decree in her favor in subsequent suit.

10. In regard to contents of plaint in consolidated Suit No.21/2022, the same almost are per verbatim to written statement of the respondent/defendant No.5 Mst. Noor Bibi in leading suit, therefore, for brevity sake same are not be incorporated here, however, the respondent/ defendant (plaintiff Mst. Noor Bibi) of consolidated suit prayed for judgment and decree as follows:

- a) That, the Honourable Court may be pleased to direct defendant No.1 to perform his part of the contract & Execute Registered Sale Deed in respect of the suit Plot viz Suit Plot No.12 & 13 in favour of the plaintiff.

**OR**

In case of failure, the Nazir of this Court be directed to execute the Regular Register Sale Deed of Suit Plots viz. Suit Plot No.12 and 13 in favour of plaintiff.

- b) That, this Honourable Court may be pleased to issue Mandatory Injunction, directing Defendant No.1 to execute Regular Registered Sale Deed of Suit Plots in favour of plaintiff and defendant No.04,05,06 & 07 be directed to issue Sale Certificate of suit plots and get execute the Regular Registered Sale Deed of suit plots in favour of plaintiff only.
- c) That this Honourable Court may be pleased to grant permanent injunction, whereby restraining the defendant No.01 & 02 from interfering into peaceful possession of plaintiff over suit plots viz. Plot No.12 and 13, situated in Shah Colony & restraining the defendant No.01 & 02 from alienating, leasing, changing, transferring or

creating third party interest over suit property viz. Suit Plot No.12 & 13 be entering into any type of transaction and further defendant No.04,05,06 & 07 be restrained from executing Regular Registered Sale Deed of suit plots to anybody else except plaintiff and they also be restrained from issuing sale certificate in respect of suit plots, nor change the status of suit plots through themselves, through their agents, servants, subordinates, assignees, men, supporters, successors & attorneys etc or through any enforcing agencies, till the disposal of the present matter.

- d) Costs of the suit may be saddled upon the defendant No.01 & defendant No.02.
- e) Any other relief (s) which this Honourable Court deems fit, just and proper in favour of the plaintiff.

11. From divergent pleadings of both suits, the trial Court framed consolidated issues as follows :

### **CONSOLIDATED ISSUES**

1. Whether the leading suit No. 104/2021 is not maintainable under the law?
2. Whether the leading suit No. 104/2021 is hopelessly time barred?
3. Whether the leading suit of plaintiff suffers from mis-joinder and non-joinder party?
4. Whether, the plaintiff of leading suit has no cause of action to file the suit but malafidely filed with collusion of defendant No.1 has filled leading suit in order to usurp the property of plaintiff of subsequent suit?
5. Whether the plaintiff of leading suit has no locus standi to file leading suit?
6. Whether the defendant No.1 Munawar Ali Shah, brother of plaintiff of leading suit has committed fraud in respect of suit property?
7. Whether the plaintiff of subsequent No. 21/2022 is lawful purchaser of suit property, purchased from defendant No.1 of both suits and plaintiff subsequent suit is in lawful possession of suit property since its purchase?
8. Whether the pleadings of leading suit, it is obvious that defendant No.1 Munawar Ali Shah of both suits is under obligation of transfer the suit property in the name of plaintiff of subsequent suit?

9. Whether the plaintiff of subsequent suit is entitled to get the property under question transfer in her name on the basis of sale agreement executed by defendant No.1 of both suits (Munawar Shah)?
10. Whether the version of plaintiff of leading suit favour the version of plaintiff of subsequent suit as defendant No.1 has been committed fraud as per allegation leveled by her sister/ plaintiff of leading suit?
11. Whether the entry in respect of suit property in the name of defendant No. 1 is based on fraud and liable to be cancelled?
12. Whether plaintiff of subsequent suit is entitled for the relief claimed by her?
13. Whether the suit of plaintiff of leading suit is causeless?
14. Whether suit of plaintiff of leading suit is barred under prevailing law?
15. What should the decree be?

12. In order to prove the case, plaintiff Mst. Shehana Bibi of leading suit examined City Surveyor Khipro Shahid Hussain Memon as Ex. 34 who produced authority letter 34/A, extract form bearing No. 4103, Sheet No.16, Chalta No. 107 as Ex. 34/B, verification report bearing No. 672 as Ex. 34/C. WHC Muhammad Khan examined as Ex. 36. Hot Muhammad, clerk, examined as Ex. 41 who produced authority letter as Ex. 41/A, entry No. 9615 of Taluka Form-II as Ex. 41/B, entry No. 42 of Taluka form-II as Ex. 41/C. Attorney of plaintiff examined as Ex. 51 who produced special power of attorney as Ex. 51/A, city survey enquiry letter sheet No.16 as Ex. 51/B, certified true copy of sheet No.16, chalta No. 166 to 169 as Ex. 51/C, certified true copy of deposition of Noor Bibi as Ex. 51/D, sale agreement No. 390 dated 23-06-1973 and original registered sale deed No.1801 dated 25-12-1976 as Ex. 51/E and F and revenue entry No. 9615 and 42 as Ex. 51/G and H. Thereafter learned counsel for applicant/plaintiff Mst. Shehana Bibi filed statement for closing the side of her evidence.

13. In rebuttal, the defendant Mst. Noor Bibi of leading suit examined at Ex. 44 who produced ruled card as Ex. 44/A, enquiry register chalta No. 107, 4103 as Ex. 44/B. Mst. Noor Bibi (defendant) examined as Ex. 55 who produced original sale



agreement dated: 31-05-2007 as Ex. 55/A, register sale deed No. 84 as Ex. 55/B and extract form as Ex. 55/C. Stamp vendor Inayatullah as Ex. 56. Thereafter learned counsel for respondent/ defendant Mst. Noor Bibi filed statement to close the side of evidence of respondent/ defendant Mst. Noor Bibi.

14. Learned trial court decreed leading suit No.104/2021 and dismissed subsequent suit No.21/2022 through impugned judgment and decree dated 08-03-2024. The applicant Mst. Noor Bibi preferred Appeals against the judgment and decree of trial Court, out of which Civil Appeal No. 22/2024 was allowed while Civil Appeal No.23/2024 was dismissed by learned lower appellate Court vide impugned judgment and decree.

15. Learned counsel for the applicant/ respondent Mst. Noor Bibi **(Civil Revision application No.22 of 2025)** has argued that impugned consolidated Judgment and decree passed by the learned trial Court and the findings of the appellate Court to the extent of Civil Appeal No.23/2024 filed by applicant/ respondent Mst. Noor Bibi are against the facts, law, justice and equity; that learned courts below have not considered the documents attached/produced by the applicant/ respondent Mst. Noor Bibi and dismissed the suit/ appeal of applicant/ respondent Mst. Noor Bibi in slipshod manner; that learned trial court failed to give finding on each Issue separately and learned appellate court has also not considered such facts; that the learned trial court has also not properly framed the issues; that the learned Courts below have not considered that the applicant was enjoying physical possession of the suit property and question of limitation on the suit of applicant/ respondent Mst. Noor Bibi does not arise; that learned Appellate Court has not dismissed aforesaid Civil Appeal of applicant/ respondent Mst. Noor Bibi on merits rather dismissed the Appeal on the point of Limitation;

16. He further argued that the learned Courts below have not not considered the fact that the respondent/ defendant Syed Munawar Ali Shah in his written statement admitted all the contents of suit of the applicant/ respondent Mst. Shehana Bibi and extended his no objection for decreeing the suit, this fact was sufficient to

observe that the applicant/ respondent Mst. Shehana Bibi and respondent/ defendant Syed Munawar Ali Shah malafidely cheated applicant/ respondent Mst. Noor Bibi; that learned Courts below also did not consider that applicant/ respondent Mst. Noor Bibi was in possession of the property since its purchase; that the Consolidated Judgment and decree of learned trial court as well as finding of learned appellate Court in Civil Appeal No.23/2024 are full of surmises, conjectures, based on hypothetically and have got no legal sanctity in the eyes of law; that impugned Judgments and Decrees of the learned lower Courts are against the material on record. He lastly prayed for setting aside impugned judgment(s) and decree(s) passed by learned lower courts and to decree of the suit of applicant/ respondent Mst. Noor Bibi and dismiss suit of the applicant/ respondent Mst. Shehana Bibi. In support of his contentions he has relied upon case laws i.e. *Ghafoor Ahmad and 2 others vs. Collector, Consolidation, Jhelum Office at Attock, District Attock and 4 others* (1998 S C M R 2358), *Jan Muhammad Abbasi vs. Mukhtiarkar Estate, Larkana (Barrage Mukhtiarkar) and others* (2007 CLC 1790), *Zahid Hussain and 10 others vs. Shamsuddin and 9 others* (2014 CLC 1334), *Iqbal Hussain vs. Province of Punjab through Collector, Bahawalpur District* (2001 CLC 1019), *Sagheer Ahmed vs. Provincial Government through Chief Secretary G.B and 5 others* (2022 MLD 132), *Syed Shahan Shah alias Syed Nasrullah Shah through legal heirs vs. Syed Amanullah Shah and 17 others* (2021 MLD 531), *Ali Muhammad and another vs. Muhammad Bashir and another* (2012 SCMR 930), *Muhammad Ilyas and others vs. Muhammad Sharif and others* (2001 CLC 1194), *Messrs Society Oil Dealers, Karachi vs. District Judge, Karachi and another* (2003 MLD 205), *Habibullah and 8 others vs. Mir Manzoor Hussain and another* (2014 MLD 303), *Mst. Khair-ul-Nisa and 6 others vs. Malik Muhammad Ishaque and 2 others* (PLD 1972 Supreme Court 25), *Abdul Majid vs. Syed Muhammad Ali Shamim and 10 others* (2000 SCMR 1391), *Raisuddin through legal heirs vs. Mst. Rabia Begum and 11 others* (2016 MLD 14), *Muhammad Ramzan vs. Muhammad Ali and 13 others* (2016 MLD 1255), *Muhammad Imran Khan and another vs. Ehsanullah and others* (2016 MLD 418), *Momtazul Karim and others vs. Abu Hussain and another* (1970 SCMR 816), *Masood Alam vs. Haji Mubarak Hussain and others* (2020 CLC

1461), *Mst. Maryam Mirza vs. M.M.Kazi and 2 others* (1988 MLD 1651), *S.M.Sham Ahmad Zaidi through legal heirs vs. Malik Hassan Ali Khan (Moin) through legal heirs* (2002 CMR 338), *Raja Khan vs. Shah Nawaz and 10 others* (2019 CLC 2061), *Hakim Ali and another vs. Government of Punjab through Collector, Sheikhupura and 4 others* (2003 YLR 3084), *Sardar Ahmed Yar Khan Jogezaei and 2 others vs. Province of Baluchistan through Secretary C&W department* (2002 SCMR 122), *Land Acquisition Collector, Nowshera and others vs. Sarfaraz khan and others* (PLD 2001 Supreme Court 514), *Overseas Pakistanis Foundation and others vs. Sqn. Ldr. (Retd). Syed Mukhtar Ali Shah and another* (2007 SCMR 569), *Faizullah vs. Muhammad Sarwar and another* (2013 CLC 1054), *Abdul Hameed Khan vs. Mrs. Saeeda Khalid Kamal Khan and others* (PLD 2004 Karachi 17) and *Birgiz Jahan Bajiga Malik vs. Muhammad Hasan and others* (PLD 1964 Dacca 202).

17. Learned counsel for applicant/ respondent Mst. Shehana **(Civil Revision Application No.37 of 2025)** submits that impugned judgment and decree passed by learned appellate court is opposed to law, facts, equity and principles of natural justice and are liable to be set aside whereas judgment and decree of the learned trial court are legal, valid, in accordance with law and proper appreciation of the evidence available on record; that the learned appellate court failed to consider material aspect of the case while passing the impugned judgment and decree that father of applicant/ respondent Mst. Shehana was exclusive owner of suit property and after his demise applicant/ respondent Mst. Shehana Bibi, defendant/ respondent Syed Munawar Ali Shah and their mother Mst. Pir Bibi were the surviving legal heirs but defendant/ respondent Syed Munawar Ali Shah fraudulently got changed foti khata badal in his favour on 10.2.2006 wherein names of applicant/ respondent Mst. Shehana Bibi and her mother were not included such fact is also admitted by the said defendant/ respondent Syed Munawar Ali Shah in his written statement; that applicant/ respondent Mst. Shehana Bibi led confidence inspiring evidence and successfully proved her case;

18. He further argued that the learned appellate court failed to consider this material aspect of the case while passing impugned

judgment and decree that during pendency of the suit the respondent/ applicant Mst. Noor Bibi ousted applicant/ respondent Mst. Shehana Bibi from inherited property upon which applicant/ respondent Mst. Shehana Bibi filed an application under Order VI Rule 17 C.P.C which was dismissed and thereafter on the basis of false agreement of sale claimed to be executed between her and defendant/ respondent Syed Munawar Ali Shah of suit plots No.12 and 13 though defendant/ respondent Syed Munawar Ali Shah was not competent to sell inherited property/ share of applicant/ respondent Mst. Shehana Bibi; that learned appellate court failed to consider that since applicant/ respondent Mst. Shehana Bibi was dispossessed from the suit property during the pendency of suit and her application U/O 6 Rule 17 C.P.C was also dismissed, hence question of seeking possession in prayer clause does not arise; that the learned appellate court erroneously held that applicant/ respondent Mst. Shehana Bibi was in collusion with the defendant/ respondent Syed Munawar Ali Shah; that learned appellate court has not assigned any cogent, convincing, plausible reason and justification for passing impugned judgment and decree hence same is liable to be set aside; that the impugned judgment and decree of learned appellate court is result of misreading and non-reading of evidence available on record. Lastly he prayed for setting the impugned judgment and decree of learned appellate to the extent of dismissing the suit of the applicant/ respondent Mst. Shehana Bibi.

19. Learned A.A.G supported the impugned judgment of learned appellant court.

20. I have heard learned counsel for the parties and have gone through the material available on record.

21. As per claim of the applicant/respondent Mst. Shehana Bibi, her father Syed Ali Shah was the sole owner of the suit property viz plots No.6,7,12 and 13 admeasuring 1350 sq.ft each, total 5400 sq.ft situated at Thana road, Syed colony, Khipro, District Sanghar and at present there exist a bungalow in which she and respondent Syed Munawar Ali Shah, being her brother, are

residing. She further averred that her father and mother were expired in the month of June, 1985 and 06-04-2019 respectively. In year 2021 she wanted to get loan by mortgaging her share in the suit property when she came to know that her brother respondent/ defendant Syed Munawar Ali Shah by committing fraud and cheating got affected his name in the record of rights by way of *foti khata badal* by impersonating himself to be the sole legal heir of deceased Syed Ali Shah in respect of plots No.12 and 13 while the record of plots No.6 and 7 were not available due to burning due to assassination of Mohtarma Benazir Bhutto.

22. The respondent/defendant Syed Munawar Ali Shah admitted the claim of the applicant/ plaintiff Mst. Shehana Bibi in his written statement, whereas claim of the applicant/ respondent Mst. Noor Bibi is that she purchased suit plots No.6 and 7 from Syed Lal Shah and her husband late Syed Saleh Shah through registered sale deed No.84 dated 20-01-2012 and then she made construction upon both said plots and said plots are mutated in her favour in the record of rights while suit plots No.12 and 13 were purchased by her from respondent/ defendant Syed Munawar Ali Shah through sale agreement dated 31-05-2007 in sum of Rs. 600,000/= and then she constructed pucca room alongwith *Angan/* courtyard by spending amount of Rs.20,00,000/=.

23. From perusal of record, it reflects that attorney of applicant/ respondent Mst. Shehana Bibi produced registered sale deed and Mutation Entry No.42 dated 14-1-1982 at Ex.51/E and 51/G which shows that her father and father of respondent/ defendant Syed Munawar Ali Shah namely Syed Ali Shah was the owner of the suit plots No.12 and 13 and after the death of Syed Ali Shah, original owner, the respondent/ defendant Syed Munawar Ali Shah got fraudulently changed *foti khata badal* of his father vide entry No. 9615 dated 10-02-2006 wherein shown himself as sole legal heir of his deceased father and could not get include the names of applicant/respondent Mst. Shehana Bibi and his mother Mst. Pir Bibi and sold out suit plots No.12 & 13 to respondent/ applicant Mst. Noor Bibi through an agreement though he had no any legal title or legal character to sell the entire

inherited property to the respondent/ applicant Mst. Noor Bibi; therefore, such agreement is void and cannot be specifically enforced under the law and it is cardinal principle of justice that illegal or void foundation could not create a right and any superstructure build up thereon would equally remained illegal and void. Moreso, the alleged agreement as per the terms and conditions was valid till 30-9-2007 and registered sale deed was not executed by respondent/defendant Syed Munawar Ali Shah and the legal heirs of deceased Syed Ali Shah being co-sharers of inherited property and the respondent/ defendant Mst. Noor Bibi has not challenged the same within the stipulated time as required under Article 113 of Limitation Act, 1908 by filing such suit within three years but she filed suit on 15-2-2022 i.e. after lapse of about 15 years which is also barred by limitation and under section 42 of Specific Relief Act.

24. There is no denial from the side of respondent/ applicant Mst. Noor Bibi that father of applicant/respondent Mst. Shehana Bibi and respondent/ defendant Syed Munawar Ali Shah was the owner of the suit plots No.12 and 13 so also there is also no denial that applicant/respondent Mst. Shehana Bibi was one of the legal heirs being daughter of late Syed Ali Shah. Therefore, in such circumstances, as stated in supra that respondent/ defendant Syed Munawar Ali Shah was not legally competent to execute sale agreement in respect of entire suit plots No.12 and 13 in favour of respondent/ applicant Mst. Noor Bibi; hence learned trial court has rightly held that applicant/respondent Mst. Shehana Bibi being one of the legal heirs of deceased Syed Ali Shah is entitled to get her share from the property left by her deceased father Syed Ali Shah and that since the respondent/defendant Syed Munawar Ali Shah was not entitled to execute sale agreement for entire suit plots No.12 and 13 with the respondent/ applicant Mst. Noor Bibi, hence her suit for specific performance of contract is not maintainable.

25. The facts of the case laws relied upon by learned counsel for applicant/respondent Mst. Noor Bibi are quite distinguishable from the facts of the case in hand.

26. From the above discussion, it is crystal clear that the learned appellate court has committed material irregularity and illegality in dismissing the suit of applicant/respondent Mst. Shehana Bibi; however applicant/respondent Mst. Noor Bibi (plaintiff in subsequent suit No.21/ 2022) has failed to point out any illegality or material irregularity in the impugned judgments and decrees of learned trial court and learned appellate Court; hence Civil Revision Application No.S-37 of 2025 is **allowed** while Civil Revision Application No.S-22 of 2025 is dismissed. Consequently, impugned judgment and decree passed by learned trial court is maintained while judgment and decree passed by learned appellate Court is set aside to the extent of dismissal of leading suit No.104/ 2021 filed by the applicant/ respondent Mst. Shehana Bibi.

**Judge**

“Saleem”

