

Order Sheet
IN THE HIGH COURT OF SINDH KARACHI
Second Appeal No.87 of 2022
(Zulfiqar Ali Vs. Ghulam Sarwar & others)

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| Date | Order with Signature of Judge |
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Fresh Case

1. For order on CMA No.9330 of 2024.
2. For order on CMA No.9331 of 2024.
3. For order on CMA No.2416 of 2024.
4. For hearing of main case.

12.01.2026

None present for the appellant.
Mr. Iqbal Khurram, Advocate for respondent No.1.

Jawad Akbar Sarwana, J. This Second Appeal is filed by Zulfiqar Ali (plaintiff/appellant) who is aggrieved by the judgment dated 27.03.2021 passed in Civil Suit No.1614 of 2017 by the VIIth Senior Civil Judge, Karachi, West, wherein the suit for specific performance and permanent injunction concerning a residential single storey house on Plot No.A-006, Sector-V, Sub-Sector-1, Gushan-e-Maymar, KDA Scheme No.45, Karachi, measuring 200 sq. yds. (hereinafter to be referred to as the “suit property”), filed by the appellant/plaintiff against Ghulam Sarwar/defendant no.1 (respondent no.1), Jabran son of Aurangzeb/defendant No.2 (respondent no.2) and Maymar Housing Scheme (Pvt.) Ltd./defendant no.3 (respondent no.3) was dismissed whereafter when the appellant/plaintiff filed Civil Appeal No.186 of 2021 before the before the IXth Additional District Judge, Karachi, West, and the said appeal was also dismissed vide judgment dated 26.01.2022. The judgment is now impugned in this Second Appeal.

2. Heard counsel. On perusal of record, it appears that the legal heirs of Ghulam Sarwar (defendant/respondent no.1), namely Ghazanfar Ali and Haroon Nasir had filed Civil Suit No.829 of 2021 for, inter alia, cancellation of alleged power of attorney of Jabran son of Aurangzeb concerning the suit property against the appellant/Zulfiqar Ali and

respondent nos.2 and 3 herein, which was decreed in favour of the legal heirs of Ghulam Sarwar (defendant/respondent no.1) by the VIIth Senior Civil Judge, Karachi, West, vide judgment dated 04.05.2023 and subsequent challenges to the same were upheld, as per the counsel for the respondent No.1, upto to the judgment dated 25.08.2025 passed by this High Court in Second Appeal No.353 of 2024. A copy of the same downloaded from the website has been submitted by the counsel for respondent no.1 which is taken on record. It appears that the entire controversy with regard to the alleged sale of the subject property turns on a general power of attorney, the genuineness of which has been questioned/denied by the Consulate General of Pakistan at Houston, USA as of 27.08.2020 in Civil Suit No.829 of 2021 which judgment of 04.05.2023 was approved by the High Court in the second appeal on 25.08.2025 and has attained finality. Counsel for respondent no.1 submits that there is no challenge pending before the Supreme Court against the said judgment of the High Court. This fact allegedly has come in the way of appellant /plaintiff in Civil Suit No.1614 of 2017 and there is no material available on record or through evidence during trial that could dismantle the defence taken by Ghulam Sarwar (respondent/defendant no.1) based on the above-mentioned judgment of the trial Court in Civil Suit No.829 of 2021.

3. Yet, another challenge made earlier in time concerning the same suit property was agitated by one Rana Mehmood in a suit for specific performance filed against Ghulam Sarwar in Civil Suit No.529 of 2017 and this suit was also dismissed by the XVth Senior Civil Judge, Karachi, West, vide order dated 20.10.2018.

4. A perusal of the grounds raised in the memo of appeal refers to the deposition of the attorney of respondent no.1. It is claimed by the appellant the said deposition has been overlooked by the trial Court as follows:

“It is correct to suggest that possession was handed over to the plaintiff by Jibran. It is correct to suggest that I along with Ghulam Sarwar (Defendant No.1) and his two sons visited the plaintiff.” Then he deposed, I have no knowledge about the meeting between the plaintiff and Ghulam Sarwar and his two sons,.....”

5. The alleged above-mentioned reference to “possession” during evidence arises out of the earlier referred trial proceedings in Suit No.829 of 2021 which were running in parallel with Suit No.1614 of 2017. It transpires that as per the judgment dated 04.05.2023 in Civil Suit No.829 of 2021, the trial Court also decreed that the legal heirs of Ghulam Sarwar were entitled to get the possession of the suit property, and the legal heirs of Zulfiqar Ali were directed to hand over possession of the suit property to the legal heirs of Ghulam Sarwar. The cross-references to “possession” in the evidence of respondent no.1 during trial in Civil Suit No.1614 of 2017, relied upon by Zulfiqar Ali (appellant/plaintiff) in the second appeal at the material time when the evidence was being recorded, appear to be in relation to the litigation in the said suit. In the big picture, the trial Court’s conclusion in the judgment passed in Civil Suit No.1614 of 2017 is correct particularly after the power of attorney of Jabran has been reduced to a cipher (cancelled) based on the judgment dated 04.05.2023 passed in Civil Suit No.829 of 2021, which has attained finality.

6. For the above reasons, I do not find any ground for making any intervention in the impugned judgment which is liable to be sustained; hence this Second Appeal is dismissed for the above reasons alongwith listed applications except CMA No.9330 of 2024, which application is allowed to bring on record the legal heirs of Zulfiqar Ali, who passed away on 14.06.2022, as named therein. Office is directed to prepare amended decree, accordingly.

J U D G E

Asif