

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH KARACHI**

**II<sup>nd</sup> Appeal No. 164 of 2025**

DATE	ORDER WITH SIGNATURE OF JUDGES
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Fresh Case

1. For orders on CMA No.3522/2025 (U/A).
2. For orders on office objection a/w reply as at 'A'.
3. For orders on CMA No.3523/2025 (Exemption).
4. For hearing of main case.
5. For orders on CMA No.3524/2025 (Stay).

**14.05.2025**

Mr. Ahtasham-ul-Hassan Narejo, Advocate for the Appellant.

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**ORDER**

**MUHAMMAD JAFFER RAZA-J**: Learned counsel for the Appellant has impugned the judgment dated 14.04.2025 passed in Civil Appeal No.330/2024. The above mentioned Civil Appeal emanated from the order dated 01.11.2024 passed in Civil Suit No.733/2023 wherein an application under Order VII Rule 11 CPC filed by the Defendants in the said Suit was allowed vide order dated 01.11.2024 and plaint was rejected. The findings of the learned Trial Court was maintained by the learned Appellate Court in the aforementioned Civil Appeal.

Primarily the ground for rejection of the plaint was that the first agreement to sell was entered into on 13.12.1998 between the deceased father of the Appellant and deceased Syed Iqbal Hussain (husband of Respondent No.1 and father of Respondent No.2). Subsequently the said agreement was amended on 04.06.2012. The Plaintiff/Appellant filed the said Suit in the year 2023 well beyond the prescribed period of limitation under Article 113 of the Limitation Act, 1908 ("**the Act of 1908**"). In this regard learned counsel has relied upon Section 53-A of the Transfer of Property Act, 1882 ("**the Act of 1882**") and has stated that he is entitled for possession on the basis of the above-noted section.

It is apparent that the first agreement was executed in the year 1998 and the subsequent agreement was executed in the on 04.06.2012 and the time for

performance was set as September 2014. The above Suit was filed approximately 6 years after the prescribed period of limitation under the Act of 1908. The learned counsel was repeatedly asked about the date of refusal in order for computation of the limitation period. The learned counsel in this respect was unable to assist this court.

In reference to the argument of the learned counsel regarding Section 53-A of the Act of 1882 it is a settled principle of law that the same can only be used as a shield and not as a sword. I see no infirmity and illegality in the orders of both the learned Courts below, which would require interference by this Court.

Accordingly, the instant second appeal along with pending applications is dismissed in *limine*, with no order as to costs.

JUDGE

Nadeem Qureshi “PA”