ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

R. A. No. S - 76 of 2015

Date of hearing Order with signature of Judge

Hearing of case

For hearing of main case

02-11-2020

Mr. Sarfraz A. Akhund, Advocate for the applicants.

Respondent No.1 Abdul Qadir Mujahid in person.

Mr. Noor Hassan Malik, Assistant Advocate General Sindh.

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This revision application arises from concurrent findings of dismissal.

- 2. Learned counsel for the applicants contends that the learned trial Court in the matter despite proceeding of the case to the extent of filing of written statement and framing of issues was pleased to dismiss the suit on account of limitation, and in the appeal filed thereto learned appellate Court was pleased to dismiss the suit on account of the subject agreement not found available for specific performance which was found to be unenforceable. Learned counsel for the applicants contends that the provisions of Sections 21 and 12 of the Specific Relief Act pertain to the subject matter which provide room for adjudication in respect to specific performance where land is a subject matter, and as such the learned appellate Court had wrongly dismissed the proceedings.
- 3. Respondent No.1 present states that he had made sincere attempts to get the matter settled, however, co-operation on part of the concerned was not available to him.
- 4. Learned AAG Sindh present supports the judgments impugned in the matter.

5. Having heard the learned counsels / parties and gone through the record, the subject agreement is the matter seems to be agreement pertaining to co-ownership in which numerous promises have been made between the parties and same were not dependent on the parties directly themselves. The learned trial Court had considered the matter of limitation only and dismissed the suit on account of three days' delay, however, the learned appellate Court was further pleased to quote provision of the agreement and determined the same as unenforceable. The numerous intricate element present in the agreement, prima facie, are not liable to be considered by the Civil Court on account of never ending contestation as to the intricate details required thereof. The parties to the proceedings specially who are inter se real brothers between themselves may have their own understanding of right or wrong, but the Court has to look into the element of right and wrong in accordance with law, and cannot be extended to the intricate details as a clear decision based upon sound reasoning is required to determine controversy/ies before it.

In the present circumstances, I do not find any irregularity and/or illegality in the impugned judgments, and accordingly the revision application stands **dismissed**.

JUDGE

Abdul Basit