

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

R.A No.139 of 2001

Date Order with signature of Judge

1. For hearing of M.A No.2951/2011 (U/s.151 CPC)
 2. For hearing of M.A No.1124/2011 (stay)
 3. For hearing of Main case
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20.05.2016

M/s.Basil Nabeel Malik & Muhammad Jahangir, advocates the Applicant No.2.

Mr. Sheryar Mehar, advocate for Respondent No.4.

M/s.S. M. Akhtar Rizvi & S.M. Arshad Mubin, advocates for the Respondent No.5.

Mr. Ejaz Khattak, advocate for D.H.A.

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Nazar Akbar.J.- The applicant has challenged the concurrent findings of the courts below through this Revision. The applicant filed suit for declaration and injunction bearing Suit No.455/1985 before the Court of XIVth Sr. Civil Judge (South) Karachi, which was dismissed and on Appeal bearing Civil Appeal No.40/1999, the IIIrd Additional District & Sessions Judge (South) Karachi by judgment dated 17.5.2001 dismissed the appeal and maintained the order of the trial court.

2. Brief facts of the case are that the applicant claimed to be owner of plot bearing No.43-B Khayaban-e-Bahria, Pakistan Defence Services Officer's, Co-operative Karachi, measuring 1000 sq.yds (the Suit Plot) by virtue of agreement of sale dated **30.8.1971** coupled with power of attorney allegedly registered with Sub-Registrar dated **30.8.1971**. The Respondent denied and disputed the claim of the Applicant.

3. For the purpose of disposal of this Revision application no details of facts are required, since the Plaintiff/applicant's case is based only on two

documents i.e agreement of sale and power of attorney. Both the courts below have come to the conclusion that the sale agreement was not an agreement of sale of suit plot but it was an agreement in respect of a building to be raised on the suit plot and the power of attorney was also in respect of raising the building. However, the applicant claimed that it was sale agreement and coupled with power to sell the suit plot. Be that as it may, the concurrent findings of the court are in line with the documents itself and Revisional court is not supposed to re-examine evidence and come to different conclusion by examining the document. This, if at all, could be an exclusive jurisdiction of the appellate court and it cannot be done by the Revisional Court. If any authority is required one may refer to the case of Gul Rehman ..Vs.. Gul Nawaz Khan (**2009 SCMR 589**) and relevant observation of the Hon'ble Supreme Court is as follows:-

We have heard learned counsel for the parties at length and have also gone through the available record. Revision and appeal are admittedly two different fields. Appeal is the continuation of original suit and the appellate Court has got ample power to thrash out the entire evidence and to scrutinize the available documents in the light of arguments advanced by the respective parties. On the other hand, scope of revision is limited to some illegality, material irregularity or jurisdictional defect in the impugned judgment. A bare perusal of section 115, C.P.C. clearly shows that scope of revision is limited to the above points.

However, with the help of the learned counsel, I did examine power of attorney which is available at page 169 to 179 Ex.P/1 of the R&P. This document unfortunately appears to be tempered with or at least it is not properly registered. A duly registered document is supposed to have registration number and seal of Registrar on every page and not only on the last page. The learned counsel when confronted with the document has no answer. Admittedly, this power of attorney does not bear registration number and date of registration on each and every page, therefore, this document is

not properly executed as required under the law. At least the pages of Registered document which do not bear registration number and seal of Sub-Registrar, cannot be treated as executed in front of the Registrar of Properties. This is an additional disadvantage to the applicant to claim ownership on the basis of these documents.

In view of the above, I do not see any reason to interfere in the concurrent findings, this Revision is therefore dismissed alongwith all pending applications.

JUDGE

SM