



in her account No.0036676 at Main Branch of Muslim Commercial Bank and another account No.7612-5 at Allied Bank of Pakistan, Korangi K-Area Branch, Karachi. According to the respondent the applicant is a household lady and she has no source of Income and when he was in USA he advised the applicant to purchase some immoveable property in his name, but the applicant purchased the suit property in her own name for **Rs.950,000/-** from M/s. Syed Rizwan Ali Subzwari, Syed Imran Ali Subzwari through registered sale deed dated **25.01.2001**. It is averred that when Respondent came to Karachi, and enquired from the applicant about the title documents of the suit property he found that the applicant had purchased the suit property in her name instead of Respondent. However, she promised that she would transfer the suit property in the name of respondent. On **15.5.2010** the respondent requested the applicant to transfer the suit property in his name, but she got furious and went to her mother's house and refused to transfer the same. According to the respondent, he is real owner of the suit property and in possession with all its title documents and the applicant is the benamidar having no right to transfer the suit house in the name of anyone and unless the respondent is declared owner of the suit property the concerned authority shall not be obliged to mutate the record of the suit property in the name of respondent.

3. On service of summon / notice applicant / defendant filed written statement stating therein that suit of the respondent/plaintiff is barred by law of limitation. It is averred that Respondent/plaintiff has got no title over the suit property. His possession over the suit

property was under licence, which has also been cancelled by the applicant. She has denied that she opened the bank accounts out of the fund of the respondent/plaintiff. She has further denied that plaintiff is real owner of the suit property and that she is benamidar. She has claimed that she is real owner of the suit property.

4. The learned trial court from the pleadings of the parties framed the following issues.

- i. Whether the suit is not maintainable and barred under the law?
- ii. Whether the plaintiff is actual and beneficial owner of the suit property and had paid the entire sale consideration for the said property?
- iii. Whether defendant No.1 is only Benami owner of suit property and not paid the sale consideration of the same property?
- iv. Whether the plaintiff is entitled for reliefs claimed?
- v. What should the decree be?

5. Trial court after recording evidence and hearing the parties trial Court decreed the suit of the respondent and dismissed the suit filed by the applicant. The applicant preferred an appeals bearing Civil Appeal No.134/2014 & 135/2014 before VII Additional District & Sessions Judge Karachi-East, which appeals were dismissed. This revision is directed against the consolidated judgment dated **22.9.2015**.

6. Heard the learned counsel for the parties and perused the record.

7. With the help of the learned counsel for the applicant and respondent and after going through the entire evidence and the impugned judgment, I found that both the concurrent findings are

against the applicant who is wife of the respondent and dispute between them is about the ownership of the suit property. The first suit filed by respondent in **2010** was that the suit property was purchased by the applicant from the funds of the respondent/husband of the applicant. Such contention has been denied and after two years in 2012 a counterblast suit has also been filed by the applicant. Since the applicant has failed to establish the stand taken by her in her own plaint that she is lawful owner of the property having purchased it from any other source except the source of money derived from the plaintiff, her suit was dismissed and the claim of the respondent in his suit that during the period from 1998 to 2005 he has been serving in England and America from where he was sending money in the account maintained by the applicant established by evidence which has come on record. The account maintained by the applicant did not show deposit of money from any other source of income except the money remitted by the respondent. Learned counsel for the applicant has failed to show a better evidence than the one on the basis of which the trial Court has passed the impugned orders which were maintained by the First Appellate Court against the applicant. I do not find any irregularity in exercising jurisdiction by the Courts below nor any jurisdictional defect in passing such order.

In view of the above, this revision was dismissed by short order dated **14.01.2019** and these are the reasons for the same.

JUDGE

Karachi  
Dated:-01.03.2019