

IN THE HIGH COURT OF SINDH AT KARACHI

Suit No.333 of 2004

Present:

Justice Mrs. Kausar Sultana Hussain

Date of hearing	:	26.11.2018
For the Plaintiffs	:	Mr. Ghulam Abbas Soomro, advocate
For Defendant No.2	:	Mr. Sohail Hayat Khan Rana, advocate.
For State	:	Miss. Fatima Jatoi, State Counsel. Mr. Masood Husain Khan, A.A.G

J U D G M E N T

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KAUSAR SULTANA HUSSAIN, J. The plaintiffs have filed the present suit for declaration and recovery of amount of compensation of land with the following prayers :

- A) Declare that the plaintiffs are lawful owners of the land mentioned below :
- (i) 2-0 acres land out of Survey No.285, Deh Mehran, Malir Town.
 - (ii) 1-0 acre land out of Survey No.285, Deh Mehran Malir Town, Karachi.
 - (iii) 5-0 acres land out of Survey No.283, Deh Mehran, Malir Town, Karachi and
 - (iv) 6-0 acres land out of Survey No.287, Deh Mehran Malir Town, Karachi.
- (Total Area is 14-0 acres)**
- B) Declare the impugned orders dated 24.01.2003 and 12.08.2003 (annexure A/10 and A/11) passed by the defendants 4 and 8 as illegal and void.
- C) Declare that the land acquisition proceedings conducted in respect of the plaintiff's land noted above are void ab-initio and illegal.
- D) Direct the defendants 4 and 8 to effect mutation in the Record of Rights Form VII in favour of the plaintiffs above named in respect of the land shown in prayer clause No. (A) indicating them as lawful owners of the said land.
- E) Direct the defendant No.1 to 3 to make payment of compensation to the plaintiffs above named in respect of the said land to the tune of a sum of rupees 42 (Fourty Two) crores with interest/profit at the Bank rate from the

date of acquisition of land till the date of decree and or payment of the compensation.

F) Award costs of the suit and

G) Any other relief as is deemed fit in the circumstances of suit.

1. The brief facts of the case are that the father of the plaintiff Nos. 1 to 4 namely deceased Mian Muhammad Khalil, expired at Faisalabad on 03.12.1995, leaving behind the above plaintiffs as his legal heirs. The father of the plaintiffs divorced his two wives on account of the domestic differences, namely, (1) Mst. Sarwar Begum (divorced in 1986) died in 2003 from whom plaintiff Nos. 1 & 4 were born and (2) Mst. Mohsina Sultana (divorced in 1967) died in 1992 from whom plaintiff Nos. 2 & 3 were born. It is further averred in the plaint that after the demise of deceased, the plaintiffs traced out two Registered Sale Deed in respect of Urban lands in Deh Mehran, Malir Town, Karachi, as under:

- a. Registered Sale Deed dated 20.08.1947 (Registration No.317) regarding purchase of two (2) acres of land in Deh Mehran Malir Town, Karachi (Airport) out of Survey No.285 from non-evacuee namely Dr. Hollaram Shivandas Pinjani;
- b. Registered Sale Deed dated 15.09.1947 (Registration No.470), whereby, land measuring one (1) acres out of Survey No.285, five (5) acres out of Survey No.283 and six (6) acres out of survey No.287 of same Deh (total 12 acres) was purchased from the same Vendor. The above lands were purchased by the deceased father of the plaintiffs after the partition of Indo-Pakistan Sub-Continent and before the enforcement of Pakistan Administration of Evacuee Property Act, 1957 (Act XII/1957), which was enforced with effect from 15.03.1957, as such the entire acquired land is Muslim Property.

2. The genuineness of above noted Sale Deeds was verified by defendant No. 4, Member Board of Revenue from the District Registrar of Properties, Karachi and as per letter/report bearing No. 301/SR/CR/2003, dated 10.06.2003, the Sub-Registrar, Central Record, City Court, Karachi has certified the said Sale Deeds to be genuine documents. It is further averred in the plaint that during the life time, deceased Mian Muhammad Khalil, moved an application dated 15.05.1963 to the

Mukhtiarkar, Karachi, which paper has also been traced out alongwith the Sale Deeds wherein the Mukhtiarkar, Karachi was requested to effect mutation in the Record of Rights Form-VII, but no action was taken without any reasonable cause, on account of fraud, misrepresentation and suppression of material facts mutation was not made to the plaintiff's father and as well as to the plaintiffs and under the Second Proviso to Section 135-C, of the Repealed Sindh Land Revenues Code, 1879, then applicable, the persons acquiring rights by virtue of the Registered Documents were exempted from giving the intimation of acquisition of such rights. It is also averred in the plaint that after tracing out the Sale Deeds, the plaintiffs applied to the District Office (Revenue), Karachi by application dated 20.02.2002, who had seen and examined the Original Sale Deeds and forwarded the request of the plaintiffs to D.D.O (Revenue), Malir Karachi/defendant No.7, vide his letter No. D.O (REVENUE)/K/L-B/644 dated Nil for orders and thereafter another application also moved to DDO (Revenue) through their Advocate on 16.03.2002, but nothing happened, thereafter the plaintiffs through an application dated 24.01.2003 also requested the Mukhtiarkar/defendant No.8 to effect mutation in the Record of Rights in their favour, which was dismissed, vide impugned order dated 24.01.2003 on the ground that land had been acquired by Civil Aviation Authority/defendant No.2 and they could not acquire the plaintiff's land without payment of adequate compensation, thereafter the plaintiffs have filed a Revision Application under Section 164 of the Land Revenue Act 1967, against the said impugned order before defendant No.4/Member Board of Revenue (Land Utilization) Karachi, who rejected the same by order dated 12.08.2003 and that both impugned orders dated 24.01.2003 and 12.08.2003 passed by defendants No.4 & 8/Mukhtiarkar Malir, Town/Member Board of Revenue were illegal and void, therefore C.P. No. D-1388 of 2003 was filed before this Court with the prayer to set aside the same, which was dismissed on 26.02.2004, with the observation that suit was the proper remedy. It is further averred in the plaint that the impugned orders dated 24.01.2003 and 12.08.2003 are illegal, void and

derogatory to the provision of Article 24 of the Constitution of Islamic Republic of Pakistan, 1973 in as much as the plaintiffs being lawful owners of the land, could not be deprived of the land without payment of compensation and therefore the same are liable to be set aside and the non-compliance of mandatory provision of Section 135/C and 135/D of the repealed Sindh Land Revenue Code, 1879 read with Section 42 of the Sind Land Revenue Act, 1967 has resulted in the miscarriage of justice depriving the plaintiffs of the ownership of their most valuable lands causing denial of the payment of compensation according to law. Therefore setting aside these impugned orders would certainly discourage and avoid the perpetuation of illegality on the record. The Member Board of Revenue/defendant No.4 has avoided the determination of the dispute according to law and as such the impugned orders violated the mandatory provisions of Section 44 of the Land Revenue Act. 1967 relates to the determination of disputes by the Revenue Officers by holding detailed enquiry as per prescribed procedure which could not be dispensed with and therefore the said orders are liable to be struck down and finding/admission of the genuineness of the Sale Deeds it was incumbent upon defendant No.4 MBR(LU) to hold detailed enquiry into the circumstances regarding non-payment of the compensation to the plaintiffs after perusal of the record and hearing all parties including the defendant/Civil Aviation Authority, which has not been done. It seems that by willful default to make mutation in the Record of Rights Form-VII, in favour of plaintiffs' father, the intention was to misappropriate the amount of compensation of land mala-fide, which smacks of fraud and misrepresentation. Their land situated within the Karachi Civil Airport, is a very valuable land and the present market value thereof is not less the Three Crores rupees per acre and as such the plaintiffs are entitled to receive compensation to the tune of at least a sum of Rs.42 crores with interest/profit/at the Bank rate from the date of acquisition till the date of decree and or payment of the compensation and the land acquisition proceedings conducted in respect of the plaintiff's land at the instance of Civil Aviation Authority are void and illegal

in as much as the plaintiffs should have been associated with the said proceedings. Therefore, the plaintiff's land has been taken away illegally and in a circumvented manner.

3. After service of notices upon the defendants, they have submitted their respective written statements, except the defendant No.5, 6 and 7, who vide order dated 23.11.2004 were debarred from filing of their written statements. The defendants No.1 and 3 (Government of Pakistan through Secretary, Ministry of Defence, Islamabad and Military Estate Officer, Government of Pakistan) filed their joint written statement, while defendants No.2, 4 and 8 have submitted their separate written statements.

4. The defendant Nos.1 and 3 in their written statement have stated that as per available record of (photo) copies of correspondence available in the record of defendant No.3, revealed that the Survey numbers mentioned in the paras 2(a) & (b) of the plaint, viz; Survey No.285, Deh Mehran, Malir Karachi & Survey No. 283 & 287 of same Deh were included in the area required for acquisition proceedings in 1977 for the then department of Civil Aviation, Government of Pakistan for establishment of cargo complex etc., at Karachi Airport. The defendant Nos.1&3 have further stated in their written statement that as per available record of defendant No.3 these three Survey Nos. 283, 285 and 287 were Evacuee Property held in the name to thereon Diyaram Naraindas, Tulsi Bai wife of Shevram and Bilhari Lal son of Khemchand.

5. The defendant No.2 (Director General Civil Aviation Authority) has raised legal objections in his written statement i.e. (1) "The suit is hopelessly time barred"; (2) Suit is not maintainable as the remedy available in Land Revenue Act has not been availed; (3) The suit is in violation of the provisions of Land Revenue Act and as such the same is bad in law. In reply to the plaint the defendant No.2 has stated that the plaintiffs have not filed any documentary proof, such as, Nikahnama, Divorce Deeds, Death Certificate and Birth Certificates, as they have

stated in their plaint that two wives of their father namely Mian Muhammad Khalil had divorced by him in the year 1967 and 1986, who died in 1992 and 2003 respectively. He has further stated that the plaintiff No.1, Mst. Surraya Khalil has been shown as attorney of plaintiff No.2 and 4 and the plaintiff No.3 is being representative through Begum Tasneem Ashfaq Malik as attorney for him, but no Power of Attorney of any one has been filed with the plaint. The defendant No.2 has raised objections that the plaintiffs since December, 1995 when their father Mian Muhammad Khalil died did not approach to the Court for filing the Suit and they have first time approached to this Court in the year 2004, when they have filed the present Suit. He has further stated that the Sale Deed dated 20.8.1947 and dated 15.9.1947 are forged and manipulated documents, as they do not bear the signature of the Vendee thereon. He has further submitted that the plaintiff has stated in their plaint that the authorities had verified the documents (Sale Deed in question) as genuine, which itself is contrary to the contents of the letter dated 10.6.2003 to the plaint. The defendant No.2 has further stated that the plaintiffs have failed to explain as to why late Mian Muhammad Khalil took 16 years to move an application on 15.5.1963 for mutation and why he kept quiet for subsequent period of 32 years and did not pursue his application dated 15.5.1963. Per defendant No.2 the application dated 15.5.1963 is a manipulated letter with forged signature of late Mian Muhammad Khalil. He has further stated that it is not explained by the plaintiff in their plaint that why the application dated 20.2.2002 after the death of Mian Muhammad Khalil was moved. The defendant No.2 has supported the impugned orders dated 24.1.2003 and 12.8.2003 being correct and legal and based on facts and law. Per defendant No.2 the Survey Nos.283, 285 and 287 were acquired by defendant No.2 (Civil Aviation Authority) under Land Acquisition Act, 1894 and Utilization Department, Government of Sindh has leased out the lands of the said Survey numbers, measuring 209 acres to Civil Aviation Authority for 99 years lease for construction of new Terminal, vide letter No.L4-11/3-40-79/G(K)/1 dated 30.12.1990. He has further stated that the

payment of the occupancy value of the said land was remitted by Civil Aviation Authority (defendant No.2) in November, 1992 and was credited in the Provincial Government A/C vide Challan No. 31 dated 5.12.1992 and Cheque No.OAO/H/413266 dated 14.10.1992 for Rs.17342978.40. He has further stated that after completion of all formalities, the said land of 209 acres has been mutated in the name of Civil Aviation Authority (defendant No.2) in Form-VII and entries made in Record of Rights. The defendant No.2 has denied the signatures of the plaintiffs and stated that they are not entitled for any compensation. He has also raised question on relationship of the plaintiffs and Mian Muhammad Khalil. However, the plaintiffs are put to strict proof thereof. He has further stated that the compensation have been paid to the private original allottees by the Revenue Officers and not by any public party.

6. The defendant Nos.4 & 8 (Province of Sindh, Member Board of Revenue, Land Utilization Department and Mukhtiarkar Malir Town, Karachi have submitted their written statements, whereby they have raised legal objections against the suit of the plaintiffs that it is not maintainable and no cause of action arose to the plaintiffs against the defendants No.4 and 8 for filing this Suit, as the plaintiffs have no locus standi to file present suit against the defendant Nos.4 and 8. The defendant Nos. 4 and 8 have further submitted that as per record managed by the office of the Mukhtiarkar Malir Town, Karachi (defendant No.8), the Survey Nos. 285/4-23, 283/5-00 and 287/5-19 were the Hindus property after the migration of Hindus and property was declared as Evacuee Property owned by the Province of Sindh. He has denied that there was no application dated 15.5.1963 or any further date, is on record in the office of Mukhtiarkar Malir Town, Karachi. They have further stated that the impugned orders were passed on 24.1.2003 for the reasons that the suit land has already been acquired by the Civil Aviation Authority (CAA) and the Mukhtiarkar Malir Town Karachi (defendant No.8) has rightly passed the order and the Member Board of Revenue, Sindh had also rightly

rejected the appeal of the plaintiffs by upholding the order of Mukhtiarkar Malir Town Karachi (defendant No.8).

7. Out of pleading of the parties, this Court has framed the following issues.
- i. Whether the plaintiffs, daughter and sons of late Mian Muhammad Khalil are lawful owners of the said land total measuring 14 acre in Survey No.283, 285 & 287, Deh Mehran Malir Town, Karachi in pursuance of registered Sale Deeds dated:20.8.1947 and 15.9.1947?
 - ii. Whether the Suit land having been purchased, before the enforcement of Pakistan Administration of Evacuee Trust Property, 1957 (Enforced from 15.3.1957) the said land is a Muslim property?
 - iii. Whether the suit land is not acquired by the defendant No.2, under Land Acquisition Act, 1894 in the year 1989 vide notification No.LA/187/89 dated: 08th August, 1988, if so what its effect?
 - iv. Whether the Sale Deed dated 27.8.1947 is not a manipulated document, if so, what its effect?
 - v. Whether the plaintiffs are entitled to receive compensation of the suit land from the Civil Aviation Authority/Provincial Government of Sindh, Land Utilization Department according to present market value?
 - vi. Whether the impugned order dated:24.1.2003 and 12.8.2003 annexure A-10 and A-11 passed by the defendant No.4 and 8 respectively are void?
 - vii. What should the decree be?

8. The plaintiff No.1, Mst. Surrya Khalil on 20.6.2009 was examined as PW-1, who produced copy of her affidavit-in-evidence, copy of suit No.333/2004; Conveyance Deed dated 30.7.1948, Conveyance Deed dated 30.8.1948, copy of letter dated 10.6.2007, application to Mukhtiarkar dated 15.5.1963, copy of application dated 20.2.2002, copy of letter No.DO(Rev)/K/C.B/644/2002 Karachi, copy of application dated 16.3.2002 of M.B. Bhatti Advocate, copy of

application addressed to Mukhtiarkar dated 24.1.2003 alongwith translation and copy of the order of Member of Board of Revenue in case No. SROR-19/2003 dated 12.8.2003, copy of C.P. No. 1388/2003 pertaining the order dated 26.2.2004, as Exhs. P/1 to P/13. She was cross-examined by the learned counsel for defendant Nos.1, 2 &3 on 28.7.2010. Plaintiff No.3 Salaman Khalil has submitted his affidavit-in-evidence alongwith copy of two Conveyance Deeds and letter of Sub-Registrar Central Record, City Courts Karachi dated: 10.6.2003 addressed to Reader, Member (Land Utilization) Board of Revenue, Sindh and Land Revenue Code (1879: Sindh V). Whereas, Defendant No.2, Civil Aviation Authority has also examined one Bashir Ahmed Shaikh as DW-1, on 8.12.2010, who produced his affidavit-in-evidence, original authority letter dated 9.8.2010, copy of allotment order dated 30.12.1990, copy of payment of challan dated 5.12.1990, copy of order dated 14.10.1992 and copy of Mutation papers dated 4.4.1995 as DW-1 and D-2/1 to D-2/5. He was also cross-examined by learned counsel for the plaintiff. On the same day i.e. 8.12.2010, defendant No.2, Civil Aviation Authority, also examined his another witness namely Muhammad Younus, as DW-2, who produced affidavit in evidence, original authority letter dated 9.8.2010, allotment order dated 30.12.1990, copy of payment challan dated 5.12.1992, copy of pay order dated 14.10.1992 and copy of Mutation documents dated 4.4.1995 as DW-2 and DW-2/1 to DW-2/5

9. I have heard the learned counsel for the parties and also gone through the matter at length, record of the case has been examined and my Issue wise determination is as follows:

ISSUES NO.1	As under.
ISSUES NO.2	As under.
ISSUES NO.3	As under.
ISSUES NO.4	As under.
ISSUES NO.5	As under.
ISSUES NO.6	As under
ISSUES NO.7	Suit of Plaintiffs is dismissed.

REASONS

ISSUE NO.1

10. Burden to prove this issue lies upon the plaintiffs, who claim their ownership in the land in question on the basis of inheritance derived from their father.

11. I have minutely gone through the averments put forth by the respective parties from which it transpired that as per plaintiffs version their late father purchased suit land admeasuring 14 acres from Survey numbers 283, 285 & 287 through two registered Sale Deeds executed in 1947 from one Dr. Hollaram Shivandas Pinjani. Subsequently, plaintiffs, upon expiry of their father in 1995, obtained Succession Certificate from District Court Faislabad, wherein no such property which is situated at Karachi was mentioned nor it appears in Letter of Administration. In the year 2003, plaintiffs applied for Mutation before Mukhtiarkar through an application on the basis of registered Sale Deeds supra, however, in such application they did not disclose about previous application dated 15.05.1963 purported to have given by their late father for mutation / entry in Record of Rights. Upon refusal by the Mukhtiarkar for recording entry in Record of Rights, plaintiffs preferred a Revision Petition under Section 164 of Sindh Land Revenue Act, 1967 before Member Lands Utilization, Board of Revenue, Sindh Karachi for Mutation of above stated land in their favour, however, in such Revision Petition they also did not disclose about earlier application dated 15.05.1963 given by their late father to Mukhtiarkar. It is also evident from record that both the Sale Deeds were verified to be correct by the office of the District Registrar Karachi vide letter dated 10.06.2003, addressed to Reader to the Member Lands Utilization, Board of Revenue, Sindh Karachi. However, during the proceedings of this Suit which is almost 15 years old, the plaintiffs advocate never requested the Court to call District Registrar Karachi as witness and to produce the original record of said Sale Deeds in support of their claim. Available record in the case file reveals that defendant No.2 (Military Estate

Officer) produced documents before this Court which shows that Survey No.283 was entered in the name of Dia Ram Narain Das, Survey No.285 in the name of Tulsi Bai and Survey No.287 in the name of Bilhari Lal instead of Dr. Hollaram Shivandas Pinjani as contended by the plaintiffs. It also did not come on record that as to how Dr. Hollaram Shivandas Pinjani alleged seller of the suit property to the father of the plaintiffs acquired the said property viz by purchase, by grant or by inheritance. Neither the mode of acquisition of such property is mentioned in both the Sale Deeds, nor any concrete evidence came on record, which could verify that the suit property was belonging to Dr. Hollaram Shivandas Pinjani. Mere a registered transaction of land entered into between two private parties through registered instrument did not automatically vests ownership rights in such property unless it is proved that the seller was bonafide and legal owner of such property at the time of transaction, only then he can transfer his rights vest in such property to some other persons. It is also pertinent to mention here that two Sale Deeds dated 20.08.1947 (Exh.A-1) and 15.09.1947 (Exh.A-2) were not signed by the vendee Mian Muhammad Khalil which also created doubt about authenticity of the documents. Issue No.1 is therefore answered in negative.

ISSUE NO.2

12. Onus to prove this issue lies upon the plaintiffs who claimed the property in question is a non-evacuee (Muslim Property) having been purchased before the enforcement of "The Pakistan (Administration of Evacuee Property) Act, 1957 (XXII of 1957) (herein after referred to as Act, 1957) while going through the record and relevant laws, it transpired that Section (2) (3) (b) of the Act, 1957 which is very much clear says as under:

Section 2

(2) "Evacuee" means any person:-

(a) who, on account of the setting up of the Dominions of Pakistan and India, or on account of civil disturbances or the fear of such disturbances, on or after the first day of March,

1947, leaves or has left any place in the territories now comprising Pakistan for any place outside those territories;

(3) "Evacuee property" means any property in which an evacuee has any right or interest (whether personally or as a trustee or a beneficiary or in any other capacity), and includes:-

(b) property of an evacuee obtained by transfer on or after the first day of March, 1947, until the transfer is confirmed by the Custodian;

13. It is clear from the provision mentioned above that property of an evacuee obtained by transfer on or after the 1st March, 1947, until the transfer is confirmed by the custodian.

14. In instant case, even if it is presumed that Sale Deeds were rightly executed, the question regarding confirmation of such transaction by the custodian remained unanswered as such confirmation was binding on transaction in question being entered into after 1st March 1947. The said transaction in question also hit by Section 3 of Act, 1957 which specified that as under:-

Section 3

Property not to be treated as evacuee property on or after 1st January, 1957. (1) Notwithstanding anything contained in this Act, no person or property not treated as evacuee or as evacuee property immediately before the first day of January, 1957, shall be treated in evacuee or, as the case may be, as evacuee property, on or after the said date.

(b) to any property which is occupied, supervised or managed by a person whose authority or right so do after the twenty-eighth day of February, 1947, has not been accepted or approved by the Custodian.

14. In the instant case no such order has been produced by the plaintiffs approving such transaction of 14 acres land in three survey numbers, 283, 285 & 287. In fact as a prime rule, which empowered the Government under the Act supra is that Section 7(1) of Act, 1957 which says that:-

Section 7(1).

Vesting of evacuee property in Custodian. (1) All evacuee property shall be deemed always to have vested in the Custodian with effect from the first day of March, 1947.

However, Section 22 of the said Act No. (XXII of 1957) provide regarding claims by interested persons” which is reproduced below for ready reference:-

Section 22

Claims by interested persons. (1) Any person claiming any right or interest in any property treated by the custodian or a Rehabilitation Authority as evacuee property may prefer a claim to the Custodian on the ground that:-

(a) the property is not evacuee property, or

(b) his interest in the property has not been affected by the provisions of this Act.

(2) An application under sub-section (1) shall be made within the prescribed period being a period of not less than thirty days from the prescribed date.

(3) On receiving an application under sub-section (2), the Custodian shall hold a summary inquiry in the prescribed manner, and after taking such evidence as may be produced shall pass an order, stating the reasons therefor, rejecting the application or allowing it wholly or in part on such terms and conditions as he thinks fit to impose.

15. It is instant case, plaintiffs also failed to produce any evidence regarding their claim that the subject property (if any) shall not be treated as evacuee property.

16. Upshot of the above deliberation is that the claimed land i.e. 14 acres was not Muslim Property rather it was evacuee property.

17. The plaintiffs’ claim that under the second proviso of Section 135-C of the repealed Sindh Land Revenue Code, 1879 (then applicable) the persons acquiring rights by virtue of the Registered Documents were exempted from giving the intimation of acquisition of such rights, cannot be considered as it was a General Law and after promulgation of the Act, 1957, the said act shall prevail over General Law. It is well settled principle of law that latest law shall also prevail over former law. The Issue No.2 is therefore assumed as negative.

ISSUE NO.3.

18. During cross examination, plaintiffs admitted that no titled documents of the land other than Exh. P-3 & P-4 (Sale Deeds) are available with her. She also admits that after the death of her father, legal heirs got Succession Certificate from the Court at Faisalabad for inherited properties as well as cash amount but she had not mentioned the land of 14-00 acres in the Succession Certificate or the Letter of Administration. Civil Aviation Authority (C.A.A) in affidavit in evidence dated 08.12.2010 given a chronological instance of acquisition of 209 acres of land, which was leased to Civil Aviation Authority in the year 1990 for the consideration of Rs.1,73,42,978/- which was credited to Provincial Government Account, vide Challan No.31 dated 15.02.1992. Accordingly, the said land of 209 acres was mutated in the name of Civil Aviation Authority in Record of Right. Form VII annexed with such affidavit-in-evidence also shows Survey No.283/5-00 acres, 285/4-23 acres and Survey No.287/5-19 acres transferred from Government to Sindh to Civil Aviation Authority, vide entry No.1827. However, such record also reveals that one acre of land from Survey No.285/5-23 acres was mutated in the name of Civil Aviation Authority by Mst. Waheeda Khatoon on the basis of Land acquisition proceedings carried out by the Assistant Commissioner/Land Acquisition Officer, vide order dated 29.11.1989 alongwith other private lands, which transpired that 5-00 acres land in Survey No.283 was all Government land, 4-23 acres of land from Survey No. 285 was Government land and 1-00 acres was private land and 5-19 acres of land out of Survey No.287 was also Government land.

19. Rest of the land in Survey No.285 i.e. 4-23 acres was entered in the name of Evacuee owner Tulsi Bai and was leased out by Land Utilization Department to Civil Aviation Authority on 30.12.1990 alongwith other Survey numbers including Survey Nos.283 and 287 total 209 acres which includes 173-31 acres Government Naqaboli Land and 35-11 acres Evacuee Property and entered in Record of Right,

vide entry No.1826 and 1827 dated: 04.04.1995. The issue No.3 is therefore replied as negative.

ISSUE NO.4.

20. Onus to prove this issue lies upon the plaintiffs. In the instant Sale Deeds, there is no mention as to how seller namely Dr. Hollaram Shivandas Pinjani acquired such property or details as to entries in Record of Rights. More so, plaintiffs did not produce even a single evidence as to entries of Dr. Hollaram Shivandas Pinjani in the revenue Record of Right, the only paper on which such a tall claim is built is based on two Sale Deeds executed between two private parties without substantiated by any evidence or proof. It is also pertinent to mention here that in the Sale Deeds area of Survey No.285 is shown as 5-00 acres, while report of Mukhtiarkar shows it 5-23 acres; area of Survey No.287 shown as 6-00 acres while in Mukhtiarkar report it is shown as 5-19 acres and area of Survey No.283 shown in Sale Deed and Mukhtiarkar report is same i.e. 5-00 acres. There are certain anomalies surface during minuet scrutiny of the Sale Deed which are the basis of present litigation giving rise to suspicion as to authenticity of the document so relied upon by the plaintiffs. Per plaintiffs, the date of registration of Sale Deeds are 20.08.1947 and 15.09.1947, while date of registration in the Sale Deeds are inscribed as 03.07.1948 and 30.08.1948, moreover both the Sale Deeds also do not bear the signatures of vendee, which created doubt about unauthenticity of the Sale Deeds therefore, both the Sale Deeds have created no right of ownership in favour of the plaintiffs. Issue No.4 is therefore assumed as negative.

ISSUE NO.5

21. Record reveals that since 2012 plaintiffs' laid emphases upon incorporation of entries of land so claimed by the plaintiffs in the Record of Rights on the basis of two Sale Deeds and they never claimed or put forth any case for the compensation under Land Acquisition proceedings, however while instituting

instant case before this Court, they claimed compensation under Land Acquisition Act besides effecting entries in the Record of Rights. It is also apparent that plaintiffs never approached revenue authorities viz Collector, District Revenue Officer, Deputy Commissioner, Executive District Officer (Revenue) or Commissioner for compensation of land, more so suit land never remained in possession of deceased Main Muhammad Khalil. Therefore Issue No.5 assumed as negative.

ISSUE NO.6.

22. Defendant No.4 & 8 in their written statements submitted that as per record maintained by the Office of Defendant No.8, the Survey No.285/4-23, 283/5-00 and 287/5-19 were the Hindu Property as such after the migration of Hindus, the properties were declared as evacuee property owned by the Province of Sindh, accordingly the ownership of plaintiffs was denied, that no application dated 15.05.1963 or any other dates is on the record of the office of defendant No.8, that orders were passed on 24.01.2003 and 12.8.2003 for the reasons that suit land had already been acquired by the Civil Aviation Authority as such defendant No.4&8 had rightly passed the orders, therefore, the issue No.6 is hereby answered as negative.

ISSUE NO.7.

23. Upshot of above discussion is that the plaintiffs could not prove their claim against the defendants, therefore, I dismiss the Suit of the plaintiffs with no order as to costs.

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