

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

IInd. Appeal No.56 of 2021

Ghulam Rasool
Versus
Adam Khan & others

Date	Order with signature of Judge
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1. For orders on CMA 1729/21
2. For orders on CMA 1730/21
3. For orders on office objection a/w reply as at "A"
4. For orders on CMA 1731/21
5. For hearing of main case
6. For orders on CMA 1732/21

Dated: 29.03.2021

Mr. Saleem Nawaz Maitlo for appellant.

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A suit for declaration, permanent injunction and specific performance was filed by the appellant on the basis of a sale agreement executed between him and respondent No.1. At the very outset I have inquired a number of times to the counsel for appellant as to how the vendor/respondent No.1 became the owner of the subject property and if there are any documents to demonstrate title, which was vested upon the vendor, from whom appellant acquires right of sale agreement. He kept quiet and could only answer that he (respondent No.1) submitted lease of some other property.

I have perused the judgment of the trial Court and that of the appellate Court. The appellant has failed to establish that he acquired any right out of the property in question from a lawful owner. The issues No.2 and 3 were framed by the trial Court as under:-

1.
2. Whether sale agreement executed on March 2009 is false fabricated documents?
3. Whether defendant No.1 is lawful owner of the suit property?

The trial Court came to the conclusion that the sale agreement was not proved. It is however observed that the appellant himself admitted ownership of defendant No.1. The dispute was the alleged agreement of sale in between the parties. Since the appellant failed to prove agreement by examining the witnesses, as required under the law, the trial Court dismissed the suit which judgment was maintained by the appellate Court. The appellant has not produced any iota of evidence in support of execution of the agreement neither any material witnesses were examined. The agreement was thus not proved beyond reasonable doubt and specific performance being discretionary relief was rightly declined.

In view of above facts and circumstances, no other view is possible except the one that was arrived at by the trial Court and maintained by the appellate Court hence no indulgence in this Second Appeal is required which is accordingly dismissed along with listed applications.

Judge