



3. Upon notice respondent No.3 filed a written statement denying the sale, receiving of sale consideration, and handing over physical possession to the applicant.

4. The learned trial Court to adjudicate the matter between the parties on 13.03.2015 framed the following issues:-

- i. Whether Muhammad Aslam had sold out the disputed land to the plaintiff?*
- ii. Whether the plaintiff had paid sale consideration of Rs. 2,70,000/- to the deceased Mohammad Aslam?*
- iii. Whether Mohammad Aslam during his life agreed to execute the registered sale deed of the suit 9-8 acres in favor of the plaintiff?*
- iv. Whether the foti khatabadal of deceased Mohammad Aslam was mutated in favor of his legal heirs (defendants No.1 to 7) in the year 2014?*
- v. Whether the so-called agreement No. 560 dated 15.01.2005 is false, fabricated, and managed one?*
- vi. Whether the cause of action accrued to the plaintiff?*
- vii. What should the decree be?*

5. After framing of issues on 13.03.2015 the applicant did not appear to lead evidence; therefore, on 4.12.2015 the suit was dismissed for want of evidence. Against the said dismissal applicant filed Misc. Civil Appeal No. 01 of 2017 which was also dismissed vide order dated 28.02.2017 with the following observation.

**\* I have learned advocate for parties and gone through the relevant record. The appellant/plaintiff has filed suit in the year 2014, issues were framed by the learned trial court on 13.03.2015 and since then the matter was adjourned up to 04.12.2015, more than eight months have been passed, but the plaintiff has failed to lead his evidence, therefore the learned trial court has dismissed the suit of the appellant/plaintiff on 04.12.2015. On 09.12.2015 the learned counsel for the appellant/plaintiff has filed an application U/O 9 Rule CPC with the supporting affidavit of the plaintiff stating therein that on 04.12.2015 appellant/plaintiff was ill and went to the hospital and could not attend the learned trial court. Since 09.12.2015 matter was adjourned from time to time and again for arguments on application U/O 9 Rule 9 CPC, the learned trial court heard the arguments of the learned advocate for the parties, and the matter was fixed for order on 02.12.2016 on restoration application, and the learned trial court through impugned order dated 02.12.2016 has dismissed the application U/O 9 Rule 9 CPC, but the learned counsel for the appellant/plaintiff submitted the application for adjournment after the announcement of order on application U/O 9 Rule 9 CPC, and the same was dismissed by the learned trial court, which shows that plaintiff only want to linger on the matter. Sufficient time was provided to the appellant/plaintiff to lead evidence, more than seven months have been passed, but the appellant/plaintiff failed to lead his evidence, therefore learned trial court has dismissed the suit of the plaintiff vide order dated 04.12.2015 and thereafter restoration application was filed and the same was dismissed on 02.12.2017 through impugned order, therefore in view of above discussion I am of the humble opinion that all the contentions raised by learned**

appellant's advocate have already been taken into consideration by the learned trial Court at the time of passing the impugned order dated 02.12.2017, therefore same order appears to be just and proper and calls for no interference at this end and consequently Misc. Civil Appeal is dismissed with no order as to costs."

6. The applicant being aggrieved by the above order has filed the instant Civil Revision Application.

7. Learned counsel submitted that the impugned orders are illegal, perverse, and not under the law; that the applicant owns suit land which fact is denied by respondents 1 to 7; therefore to settle the dispute the recording of evidence is necessary; that learned counsel courts failed to consider that on the date of hearing the applicant was ill and moved an adjournment application which was not considered. He lastly prayed for allowing the instant Civil Revision Application as the vested rights of the applicant are involved.

8. I have noted that in the present case, sufficient time was provided to the applicant to lead evidence, however, he failed to lead his evidence, therefore learned trial court has rightly dismissed the suit of the applicant vide order dated 04.12.2015 and thereafter restoration application was filed and the same was also dismissed on 02.12.2017. Prima-facie there is no material placed before this court by which I can conclude that impugned judgments have been erroneously passed by both the courts below. Primarily, cases can be revised by this Court as it possesses revisional jurisdiction as defined under section 115 of the Code of Civil Procedure. This Court has the right to revise cases decided by subordinate courts to ensure the delivery of justice and maintenance of fairness.

9. Before parting with this order, it is observed that undoubtedly, Revision is a matter between higher and subordinate Courts, and the right to move an application in this respect by the Applicant is merely a privilege. The provisions of Section 115, C.P.C., have been divided into two parts; the first part enumerates the conditions, under which, the Court can interfere and the second part specifies the type of orders which are susceptible to Revision. In numerous judgments, the Honorable Supreme Court was pleased to hold that the jurisdiction under Section 115 C.P.C. is discretionary.

10. In principle the applicant throughout the proceedings has lost his case up to the level of appellate stage and at the revisional stage, he has agitated the grounds already exhausted by him and properly adjudicated by the competent forum, thus in my view, no perversity and illegalities have been pointed out in the findings of the competent forums, therefore no ground existed for re-evaluation of evidence, and thus, I maintain the Judgment and Decree passed by the courts below.

11. In the light of the above facts and circumstances of the case, I am of the view that this Court in its Revisional Jurisdiction cannot interfere in the concurrent findings recorded by the two competent Courts below and I also do not see any illegality, infirmity or material irregularity in their Judgments warranting interference of this Court. Hence, this Revision Application is found to be meritless and is accordingly dismissed along with the pending application(s) with no order as to costs.

**JUDGE**

*\*Karar\_Hussain/PS\**