

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Civil Revision Application No. S-110 of 2022

Applicant : *Muhammad Hassan Dahri*, through
Mr. Syed Sardar Ali Shah Jillani, Advocate.

Respondents : *Muhammad Haroon Dahri & others*
No.1 to 10 (Nemo)

Respondents : Sub-Registrar Naushahro Feroze & *others*
No.11 to 15 (Nemo)

Date of hearing : 23.08.2022

Date of order : 23.08.2022

ORDER

ZAFAR AHMED RAJPUT, J. – Applicant / plaintiff filed F. C. Suit No. 71 of 2013 before the Court of 1st Senior Civil Judge, Naushahro Feroze, seeking specific performance of contract and permanent injunction, claiming therein that the respondents / defendants No.1 to 10 promised to execute registered sale deed in his favour in respect of agricultural land admeasuring 05-12 acres, out of Survey No.218/1, 2 & 3, situated in Deh Sahib Khan, Taluka & District Naushahro Feroze, who after obtaining *fardi* and *intikhab* of said land, became greedy and at the instance of strangers changed their mind. The respondents No.2 to 4 contested the said Suit by filing their joint written statement, wherein they denied the claim of the applicant. After framing issues and recording pro and contra evidence, the learned trial Court dismissed the Suit vide judgment and decree, dated 22-06-2017. Against that, the applicant preferred Civil Appeal No. 42 of 2019, which was also dismissed by the District Judge / Civil Model Appellate Court, Naushahro Feroze, vide judgment, dated 14-04-2022. It is against that concurrent findings of the Courts below, the instant Civil Revision Application has been preferred by the applicant / plaintiff.

2. At the very outset, learned Counsel for the applicant has failed to point out any illegality or irregularity in the impugned judgments of Courts below requiring any interference of this Court in its revisional jurisdiction.

3. It reflects from the perusal of the record that the applicant has improved his case in his evidence by deposing beyond his pleadings that Rab Nawaz and Haji Khan sold out him their shares of 2-00 and 1-00 acres, respectively; however, they both have not been made party in the Suit. Besides, entire pleading is silent ; so also, the applicant has failed to furnish in his evidence details of alleged sale and promise in terms of date, time and place and names of the witnesses in whose presence alleged oral sale and/or promise to sell was made, either by said Rab Nawaz and Haji Khan or respondents No.1 to 10. The applicant has also failed to produce any witness in support of his claim of purchasing of Suit land from Rab Nawaz and Haji Khan, and alleged promise of respondents No.1 to 10 under oral sale agreement. In this regard, it has been observed by the Honorable Supreme Court in the case of Muhammad Riaz and others v. Mst. Badshah Begum and others (2021 SCMR 605), as under:

5. “Order VI of the Code of Civil Procedure, 1908 (**‘the Code’**) is titled ‘Pleadings Generally’ and its Rule 2 states that, *‘every pleading shall contain ... a statement in concise form of the material facts on which the party pleading relies for his claim or defence...’* and its Rule 3 that, *‘The forms in Appendix A when applicable, and where they are not applicable forms of the like character, as nearly as may be, shall be used for all pleadings’*. With regard to a plaint which seeks specific performance two forms are prescribed, that is, ‘No. 47. Specific Performance (No. 1)’ and ‘No. 48. Specific Performance (No. 2)’ which respectively require that the following particulars should be mentioned in the plaint:

No. 47. Specific Performance (No. 1):

(i) ‘agreement’, (ii) ‘immovable property therein described’, (iii) ‘for the sum of _____ rupees’, (iv) the plaintiff has called upon ‘the defendant specifically to perform the agreement on his part’, (v) ‘the plaintiff has been and still is ready and willing specifically to perform the agreement on his part of which the

defendant has had notice', (vi) *Facts showing when the cause of action arose and that the Court has jurisdiction*, (vii) 'the value of the subject-matter of the suit for the purpose of jurisdiction is ____ rupees and for the purpose of court fees is ____ rupees.'

No. 48. Specific Performance (No. 2):

(i) 'agreement' which 'is hereto annexed', (ii) 'the immovable property described' in the agreement, (iii) the 'tendered' payment, (iv) the 'demanded' transfer of the said property, (v) that the plaintiff 'is still ready and willing to pay the purchase-money of the said property to the defendant' and (vi) 'that the defendant transfers the said property to the plaintiff by a sufficient instrument [*following the terms of the agreement*]'

6. The plaintiffs in the instant case relied upon an oral agreement. However, the plaintiffs did not set out the particulars of such oral agreement as per either of the prescribed forms (above) or as nearly as may be thereto and also did not describe the land which was the subject matter of the agreement. Therefore, the agreement would be void for uncertainty in terms of section 29 of the Contract Act, and consequently, it could not be specifically enforced as stipulated by section 21(c) of the Specific Relief Act."

4. In view of above facts and reasons, no case is made out on the ground of any material irregularity or exercise of jurisdiction not vested in the Courts below or failure of exercise of jurisdiction vested in it; therefore, the impugned judgments of Courts below do not call for any interference or exercise of discretion on any point of law in this case of concurrent findings. Accordingly, this revision application is **dismissed in limine**, along with pending application, if any.

Abdul Basit

J U D G E