

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
R.A. No. 57 of 2015

Date	Order with signature of Judge
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1. For orders on office objection.
2. For orders on CMA No. 5232 of 2015.
3. For hearing of CMA No. 5233 of 2015.
4. For hearing of main case.

15th December 2020

Syed Safdar Hussain, advocate for applicant.
Mr. Afaq Ahmed Saeed, advocate for respondents No. 1 and 3.

Heard learned counsel for the respective parties at length.

2. Instant revision application is against the concurrent findings recorded by both courts below. Case of the applicant is that though he gifted subject matter property to the respondent No. 1 but he intends to revoke the same. Admittedly, possession is with respondent; all ingredients were completed and registered gift deed was executed in favour of his cousin on the plea that his uncle invested amount in the property.
3. It would be conducive to relevant paragraph of the judgment of the trial Court which is that:-

“During cross-examination he denied the suggestion he had gifted out the suit property to the defendant No.1 on his will and choice. Voluntarily replied at the advice of his maternal uncle, he gifted the suit property to the defendant No.1. He also denied the suggestion that he gifted 50% of suit property on the advocate of his maternal uncle because he invested 50% of suit property in the entire property. He admitted that in Para-3 to his plaint he stated that due to love and affection he gifted 50% of his property to defendant No.1. **He also admitted that the he executed gift deed knowingly and going through its contents carefully. He admitted that in Para-2 to gift deed he stated that possession had been handed over to defendant No.1. He also admitted that the entire property is constructed in two portions. He also admitted that at the time of gift one portion was in his occupation and other was in occupation of tenant. He also admitted that the mutation was effected when the property was in occupation of tenant. He also admitted that the defendant No.1 approached to the Estate Department for rent who issued**

letters. He denied the suggestion he did not appear before the Estate Department therefore ex-parte decision was given. Voluntarily replied he had approached the Joint Estate Officer and replied all the letters. **The Estate Department stopped the rent since 01.01.2004. The lease agreement expired on 31.06.2005. He denied the suggestion that on the application of defendant No.3 the Estate Department de-hired the suit property. Voluntarily replied on his request the suit property was de-hired to him on 01.07.2005. He admitted that in the memo of plaint he has not stated that the gifted property was in his possession. He has denied that prior to 2003 he used to pay the rent by hand after collecting from Estate Department. He admitted that he filed this suit after the death of father of defendant No.1 who invested money in the entire property. It is correct to suggest that defendant No.1 gifted the suit property to the defendant No.3. He denied the suggestion that the defendant No.3 Mst. Naghma is the owner of the suit property. He denied the suggestion that the due to increase in the value of the suit property he has become dishonest and filed the present suit.** He admitted that the gift deed executed between the defendant No.1 and defendant No.3 bears the signature of defendant No.1 and the same was executed on 03.05.2005 . He denied that the suggestion that the physical possession of the suit property was handed over to defendant No.3. He conceded that when the gift deed was executed in favour the defendant No.3 the suit property was also under the tenancy of Estate Department Government of Pakistan. He stated that he had no knowledge that the defendant No.3 issued notice U/S 18 of SRPO to the Estate Department. He denied that the suit property is still in occupation of tenant. He replied that he cannot produce any proof to show that he got vacated the suit property from Estate Department. **He conceded that the value of the suit property is increased four times since he gifted the suit property."**

4. It is settled principles of law that scope of revisional jurisdiction of this Court is quite narrow and normally the concurrent findings of facts cannot be disturbed in revisional jurisdiction unless this Court comes to the conclusion that the findings of learned Courts below are result of misreading or non-reading of evidence available on record or contrary to the settled law. Reliance may be made to the decision titled as "*Noor Muhammad and others v. Mst. Azmat-e-Bibi*" (2012 SCMR 1373), wherein the Hon'ble Supreme Court of Pakistan has observed as under:

"6. There is no cavil to the proposition that the jurisdiction of High Court under section 115, C.P.C. is narrower and that the concurrent findings of facts cannot be disturbed in revisional jurisdiction unless courts below while recording findings of facts had either misread the evidence or have ignored any material piece of evidence or those are perverse and reflect some jurisdictional error."

Keeping in view the above criterion, perusal of both courts' judgments reflect that same are in accordance with law. It is settled principles of law that gift once completed can't be revoked within prohibited degrees. Here all three ingredients of gift were fulfilled and that aspect was fully adjudicated by both courts below; here the applicant has failed to establish such proposition. Accordingly, instant revision application is dismissed alongwith pending application(s).

JUDGE

SAJID