

JUDGMENT SHEET

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD.**

Civil Revision Application No. 85 of 2008

Applicant: Nisar Ahmed Through Mr. Pirbhulal U. Gokhlani Advocate.

Respondents No.1 & 2. Mukhtiarkar & Others Through Mr. Allah Bachayo Soomro, Additional Advocate General Sindh.

Respondent No.3: Through Mr. Ali Gohar Baloach Advocate.

Date of hearing 07.04.2023.

Date of Judgment: 07.04.2023

J U D G M E N T

MUHAMMAD JUNAID GHAFFAR, J. - Through this Civil Revision the Applicant has impugned Judgment dated 06.08.2008 passed by the 1st Additional District Judge Nawabshah, in Civil Appeal No.55 of 2002, whereby Judgment dated 12.10.2002 passed in F.C. Suit No.04 of 1994 by the 2nd Senior Civil Judge Nawabshah through which the Applicant's suit was dismissed has been maintained.

2. Heard learned counsel for the parties and perused the record. It appears that the Applicant filed a suit for declaration and permanent injunction and sought a declaration that the plaintiff has a legal right to have entries recorded with the Revenue Department on the basis of a registered sale deed, whereas the official defendants are legally bound to record such entry. Along with this declaration a permanent injunction was also sought in the like terms. The suit of the Applicant was dismissed by the trial court which has been maintained by the appellate court through the impugned judgment.

3. At the very outset Applicant's counsel was confronted as to any illegality in the concurrent findings of the two courts below and he has not been able to satisfactorily respond except that the plaintiff was in possession of a registered sale deed. He has been confronted as to who had executed the sale deed in favour of the Applicant as apparently no private person was joined in the proceedings below and according to him

it was one Muhammad Ibrahim. According to him the grievance of the Applicant was not against such private person but the officials who had refused to record and make entry in respect of the registered sale deed. However, this argument does not hold field inasmuch as it has come on record that the entry in favour of the purported seller Muhammad Ibrahim was forged and fabricated. In that case the Applicant ought to have joined the said person as a defendant seeking an alternate prayer of recovery and damages against the seller. It is settled law that a vendor cannot transfer a better title to a vendee than what he possesses at the time of transfer¹. It seems that apparently for such reason, he was never joined as a defendant in the suit. It has further come on record the suit land was in fact a Government land; and was never allotted in favor of any private person, including the seller from whom the Applicant derives its title. Lastly, as to the argument that a registered sale deed could not have been cancelled by the Revenue authorities, it would suffice to observe, that this was never a prayer in the Suit; hence, at this stage no finding can be recorded by this Court.

4. In view of hereinabove facts and circumstances no case for indulgence is made out to disturb or upset the concurrent findings of the two courts below and therefore, this Civil Revision Application was dismissed by means of a short order passed on 07.04.2023 and these are the reasons thereof.

JUDGE

A.

¹Faquir Muhammad v Fida Muhammad (2004 CLC 162); Muhammad Azam Masood v Muhammad Rauf (2020 MLD 1655); The Karachi Parsi Co-operative Housing Society Limited v Maneck M Dastur (2019 CLC 866)