

**IN THE HIGH COURT OF SINDH  
BENCH AT SUKKUR.**

R.A. No. S - 106 of 2020.

- 1.For orders on CMA 533/2020.
- 2.For Hearing of main case.
- 3.For orders on CMA 534/2020.

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01.12.2023.

Mr. Farman Ali Rajput Advocate for applicant.

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1. Granted subject to all just exceptions.

2&3. The Applicant seeks to impugn the Judgment and Decree of the IInd Additional District Judge/Model Civil Appellate Court, Sukkur, dated 10.09.2020, in Civil Appeal No.138/2019, as well as the underlying Judgment and Decree, dated 18.11.2019 and 21.11.2019 respectively, of the IInd Senior Civil Judge, Sukkur in F.C. Suit No.115 of 2014.

As it stands, the aforementioned Suit was filed by the Applicant for Specific Performance and Permanent Injunction in relation to certain agricultural land on the basis of an oral agreement, and was dismissed by the trial Court, with the Appeal filed by him then also meeting the same fate.

The relevant excerpt from the Judgment of the Appellate Court reads as under:-

The evidence shows that the appellant has admitted the fact of not producing any receipts of payment or mode of payment of hefty amount of Rs.4,00,000/- to the respondent No.1 before the learned trial Court. The witness to the agreement namely Nizam Shah during cross examination has stated that the agreement and the payment was made in front of him at the otaq of appellant. The second witness produced before the learned trial Court at Ex.29 namely Ghous Ali Shah stated that

he had no acquaintance with respondent No.1 prior to the oral agreement. However, according to him oral agreement was executed in his presence and in presence of appellant and the respondent No.1 at the otaq of appellant. The attorney of respondent No.1 namely Syed Anwar Ali Shah was examined at Ex.43 and during his examination has stated that in fact the suit land had been purchased by him vide sale agreement dated 23.2.2011. According to him previously on dated 21.12.2013 one person namely Peeral Shah filed a case against him before the revenue authorities regarding the suit land but the same was dismissed. The respondent No.1 has executed registered power of attorney on dated 25.8.2014 in favour of Syed Anwar Ali Shah and the said registered document/instrument has not been challenged by any one at any forum. Similarly agreement of sale reduced into writing on dated 4.3.2011 executed between respondent No.1 and Syed Anwar Ali Shah in respect of the suit land has also not been questioned by any one and thus the same remain intact.

On a query posed to learned counsel for the Applicant as to what illegality or material irregularity afflicted the determination made by either by the Courts below, no cogent argument was forthcoming in that regard and it was merely stated that a Commissioner's report had not been considered. Be that as it may, when asked whether such report had been introduced in evidence or whether any attempt to do so had even been made by the Applicant, he conceded that it was not so.

Under the given circumstances no case for interference with concurrent judgments and decrees of the fora below stands made out. That being so, the Revision stands dismissed along with the pending miscellaneous application.

JUDGE

Akber.