



has not committed any misreading or illegality in discarding the claim of Appellant/Defendant qua payment of Rs.300,000/- in cash to the husband of Respondent No.1/Plaintiff, as father of the parties who was actual owner of the Suit Property was alive in the year 1999 and he died on 25.06.2021, therefore, it is strange that Appellant/Defendant/Son paid the share from the property of the his father in the life time of the father which claim of the Appellant does not appear to the prudent mind as succession open on the death of the person, but not prior to the death of the person. As regard, contention that Respondent No.1/Plaintiff has overvalued the Suit Property, is concerned, I am of the considered view value of the property would be ascertained by the Nazir and the co-sharer would be entitled to the their respective share in accordance with Muhammadan Law from the sale proceeds, therefore, ground qua overvaluation is not a ground to set at knot the order which was passed after consideration of the admission & relevant law.”

Appellant’s stance was that respondent No.1’s share in inherited property was duly paid, however he failed to prove such claim at trial.

There could hardly be any denial to the legal position that scope of second appeal is narrow and it could be exercised only if findings of fact arrived by Courts below are based upon misreading, non-reading or misinterpretation of the evidence on record. Guidance is taken from case of Akhtar Aziz v. Shabnam Begum (2019 SCMR 524) wherein scope of second appeal stood defined as:-

“14. ... Although in second appeal, ordinarily the High Court is slow to interfere in the concurrent findings of fact recorded by the lower *fora*. This is not an absolute rule. The Courts cannot shut their eyes where the lower *fora* have clearly misread the evidence and came to hasty and illegal conclusions. We have repeatedly observed that if findings of fact arrived by Courts below are found to be based upon misreading, non-reading or misinterpretation of the evidence on record, the High Court can in second appeal reappraise the evidence and disturb the findings which are based on an incorrect interpretation of the relevant law. ...”

Perusal of judgments of the two courts below shows that they are in accordance with law and there is no misreading, non-reading or misinterpretation of evidence hence do not call for any interference by this Court. Accordingly, this second appeal is dismissed in limine, alongwith listed applications.

**J U D G E**

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