

*Judgment Sheet*

**HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS**

Civil Revision Application No. 253 of 2024

*[Muhammad Afzal v. Naeemullah and 05 others]*

Applicant by : Mr. Sher Ali Behan, Advocate  
Respondent No.1 by : Mr. Muhammad Aleem Arain, Advocate  
Respondents No.2 to 6 : Mr. Ayaz Ali Rajper, Assistant A.G Sindh  
Date of hearing : **23.04.2026**  
Date of decision : **30.04.2026**

**J U D G M E N T**

**ARBAB ALI HAKRO, J.-** The present Civil Revision Application is directed against the judgment and decree dated 29.03.2024, passed by the learned II-Additional District Judge (MCAC), Sanghar, in Civil Appeal No.116 of 2023, whereby the appellate Court maintained the order dated 16.09.2023 passed by the learned Senior Civil Judge-I, Sanghar, in F.C. Suit No.60 of 2023, through which the plaintiff of the applicant's suit was rejected under Order VII Rule 11, C.P.C.

2. The factual substratum, as emerging from the plaintiff of F.C. Suit No.60 of 2023, is that the applicant instituted a suit for Specific Performance of Contract and Permanent Injunction in respect of agricultural land bearing Survey Nos.233 and 234, admeasuring 32-00 acres, situated in Deh Jakhrao, Taluka and District Sanghar. It was averred that respondent No.1, being the admitted owner of the suit land, initially leased the land to the applicant for six crops for a period of three years commencing from 2019-2020 and ending on 20.10.2022, at the rate of Rs.600,000 per crop. A written lease agreement dated 21.10.2019 was executed between the parties, pursuant to which possession of the land was delivered to the applicant. The applicant further pleaded that the lease agreement contained a stipulation whereby respondent No.1 agreed to sell the suit land to the applicant at the rate of Rs.8,50,000 per acre, and that the applicant was obliged to tender the total sale consideration of Rs.2,72,00,000 during the subsistence of the lease

period. It was asserted that on 20.09.2022, the applicant arranged the entire sale consideration through cheque No.1614282635 of MCB Satellite Town Branch, Quetta, but respondent No.1 refused to accept the same, compelling the applicant to issue a legal notice requiring execution of the final sale deed. The plaintiff further narrated that respondent No.1, instead of honouring the alleged sale covenant, attempted to dispossess the applicant from the suit land and was seen at the office of the Mukhtiarkar, Sanghar, purportedly seeking a sale certificate to alienate the land to third parties. According to the applicant, these events furnished the cause of action for instituting the suit.

3. Upon service of summons, respondent No.1 entered an appearance and filed his written statement. While admitting the execution of the lease agreement, he categorically denied the existence of any sale agreement or sale condition therein. He asserted that the applicant had manipulated and interpolated a clause after condition No.13 of the lease agreement. Respondent No.1 further pleaded that the lease had expired, that possession had been resumed by him on 15.09.2022 and that he had thereafter leased the land to one Muhammad Ramzan on 28.09.2022. He also narrated various criminal proceedings allegedly initiated by the applicant and his associates, asserting that the applicant had unlawfully occupied the land on 21.10.2022.

4. Respondent No.1 thereafter moved an application under Order VII Rule 11 read with Section 151, C.P.C, seeking rejection of the plaint on the grounds that the suit was not maintainable, was barred by law, that the Court lacked jurisdiction and that the applicant had no cause of action or locus standi. The applicant, through his attorney, filed a counter-affidavit controverting the assertions raised in the application under Order VII Rule 11, C.P.C. It was maintained that the suit was competently instituted, that the sale stipulation formed an integral part of the lease agreement and that the objections raised by respondent No.1 involved disputed questions of fact requiring evidence.

5. The trial Court, after hearing both sides, allowed the application under Order VII Rule 11 C.P.C vide order dated 16.09.2023, holding that that the lease agreement had expired on 20.10.2022, that the pay orders tendered by the applicant were prepared on 21.12.2022, two months after expiry of the lease period and that the bank report revealed that on 20.09.2022 the applicant's account contained only Rs.640.50. The trial Court concluded that the applicant had no cause of action and that the suit was incompetent, thereby rejecting the plaint.

6. Aggrieved by the rejection of the plaint, the applicant preferred Civil Appeal No.116 of 2023 before the appellate court. Learned appellate Court, after examining the record and hearing the parties, dismissed the appeal through impugned judgment and decree dated 29.03.2024, holding that no independent sale agreement existed between the parties, that the alleged sale stipulation in the lease agreement could not be enforced in the absence of proof of readiness and willingness and that the bank report conclusively demonstrated that the applicant had not arranged the sale consideration during the lease period and maintained the rejection of the plaint.

7. The applicant, being dissatisfied with the concurrent findings of both Courts below, has now invoked the revisional jurisdiction of this Court under Section 115, C.P.C., assailing the impugned judgment and decree dated 29.03.2024 as well as the order dated 16.09.2023.

8. Learned counsel for the applicant contended that both Courts below fell into manifest error by travelling beyond the four corners of the plaint while exercising jurisdiction under Order VII Rule 11 C.P.C, as the averments in the plaint, when taken as correct, disclosed a clear cause of action founded upon a subsisting lease-cum-sale arrangement, the genuineness of which was never disputed by respondent No.1 except to the extent of a bald allegation of manipulation. He submitted that the applicant had consistently demonstrated readiness and willingness to perform his part of the contract, even depositing substantial pay orders before the trial court, and that the question whether the sale stipulation was

validly incorporated, whether the cheque was tendered within time and whether the applicant remained in possession, were all disputed factual controversies which could only be adjudicated after recording evidence. He argued that the trial Court misdirected itself by relying upon a bank report, an extraneous document not forming part of the plaint, and by treating the suit as incompetent merely because the pay orders were prepared after expiry of the lease period, thereby defeating the settled principle that technicalities cannot be permitted to extinguish substantive rights. He urged that the appellate Court mechanically endorsed the erroneous approach of the trial Court, resulting in grave miscarriage of justice, and that the matter ought to be remanded for decision on the merits after full-fledged trial.

9. Conversely, learned counsel for respondent No.1 maintained that the suit was wholly misconceived, barred by law and devoid of any cause of action, as no sale agreement ever existed between the parties and the alleged sale stipulation was a subsequent interpolation introduced by the applicant to usurp the land. He submitted that the lease agreement admittedly expired on 20.10.2022, that possession had been resumed by respondent No.1 and thereafter leased to a third party and that the applicant unlawfully occupied the land through force, which led to criminal proceedings. He argued that the applicant's plea of arranging Rs.2,72,00,000 during the lease period stood falsified by the bank report showing a negligible balance of Rs.640.50 on the very date of the alleged tender, thereby demonstrating that the applicant approached the Court with unclean hands. He further contended that the suit was hit by Section 56 of the Specific Relief Act, that no enforceable contract existed and that the plaint was rightly rejected as a stillborn proceeding incapable of succeeding even if all averments were presumed to be true. He supported the concurrent findings of both Courts below and prayed for dismissal of the revision.

10. Learned Assistant A.G. Sindh adopted the submissions advanced on behalf of respondent No.1 and submitted that no illegality or jurisdictional defect was committed by the Courts below in rejecting the plaint, as the applicant failed to

demonstrate any enforceable contractual right or any material showing readiness and willingness within the stipulated period. He therefore prayed for dismissal of the revision application.

11. Heard and perused the record.

12. The present revision calls for examination of whether the Courts below acted within the bounds of law while rejecting the plaint under Order VII Rule 11 C.P.C and whether the applicant's suit for specific performance disclosed any enforceable contractual right capable of adjudication.

13. The plaint proceeds on the assertion that the lease agreement dated 21.10.2019 contained a stipulation whereby respondent No.1 agreed to sell the suit land to the applicant at a fixed rate, subject to the applicant arranging and paying the entire sale consideration during the lease period. The plaint does not plead any separate sale agreement, any independent negotiation of terms, any earnest money, or any unequivocal acceptance by respondent No. 1 of a proposal to sell. The entire contractual foundation rests on a "note" appended to condition No.13 of an unregistered lease deed. The plaint itself acknowledges that the primary transaction was a lease for six crops, and the alleged sale component was neither executed as a separate contract nor reduced into a document bearing the essential attributes of a concluded agreement.

14. The trial Court, while deciding the application under Order VII Rule 11, C.P.C., called for a bank report to verify whether the applicant had arranged the sale consideration on 20.09.2022. This approach was legally flawed. The jurisdiction under Order VII Rule 11 is confined to the plaint and the documents annexed thereto. The Court cannot, at that stage, embark upon an evidentiary inquiry, test the veracity of assertions or rely upon the defence of the opposite party. The trial Court's reliance on the bank report and its conclusion that the applicant lacked funds were matters falling squarely within the realm of factual controversy and could not have been adjudicated at the threshold.

15. However, the mere fact that the trial Court adopted an erroneous approach does not automatically entitle the applicant to succeed in revision. The revisional Court must independently examine whether the plaint, even when read in its entirety and taken as true, discloses a cause of action or any enforceable contractual right. If the plaint itself is legally deficient and incapable of sustaining a decree for specific performance, the revisional Court cannot interfere merely because the trial Court's reasoning was imperfect. The supervisory jurisdiction under Section 115, C.P.C., is concerned with the correctness of the result, not the elegance of the reasoning.

16. When the plaint is examined on its own terms, it becomes evident that the applicant has not pleaded the essential elements of a contract as defined in Section 2 of the Contract Act, 1872. Under clause (a), a contract begins with a proposal; under clause (b), the proposal must be accepted; under clause (e), reciprocal promises form an agreement, and under clause (h), an agreement enforceable by law becomes a contract. The plaint and the alleged lease agreement do not disclose any proposal by the applicant to purchase the land, any acceptance by respondent No. 1, or any mutual assent to a concluded bargain. The alleged "note" in the lease deed does not signify a proposal or acceptance; at best, it reflects a contingent possibility or an expression of future intention, which does not ripen into a contract enforceable by law.

17. A suit for specific performance cannot be maintained unless the plaintiff demonstrates a concluded contract, complete in its essential terms, mutually assented to by both parties and enforceable under the law. A mere recital in a lease deed, a unilateral assertion of willingness or an incomplete understanding does not constitute a contract. The plaint in the present case does not plead any meeting of minds, any concluded sale terms or any act of acceptance by respondent No.1. The absence of these foundational elements renders the alleged agreement void within the meaning of Section 2(g) of the Contract Act, as it is not enforceable by law.

18. The plaintiff further asserts that the applicant “arranged” the sale consideration through a cheque dated 20.09.2022. Even if this assertion is assumed to be true, it does not cure the fundamental defect that no proposal was made, no acceptance was communicated, and no contract ever came into existence. Readiness and willingness presuppose the existence of a contract; they cannot create one where none exists. The applicant's readiness to pay cannot substitute for the respondent's acceptance of a proposal that was never made.

19. The appellate Court, while affirming the rejection of the plaintiff, correctly held that no separate sale agreement existed, that the alleged sale stipulation was embedded in an unregistered lease deed and that the plaintiff did not disclose any enforceable contractual obligation. Although the appellate Court also relied upon the bank report, its ultimate conclusion that the suit was incompetent because no contract existed is legally sound and independently sustainable.

20. The applicant's contention that the matter required evidence is misconceived. Evidence is required to prove a contract, not to create one. Where the plaintiff and lease agreement in question itself does not plead the essential ingredients of a contract, no amount of evidence can cure the legal deficiency. A plaintiff that does not disclose a cause of action is liable to be rejected, not because the defence is strong, but because the plaintiff's own case is legally untenable.

21. The revisional jurisdiction of this Court is narrow and supervisory. It is not open to this Court to substitute its own view merely because another interpretation is possible. Interference is warranted only where the subordinate Court has acted illegally, failed to exercise jurisdiction, or exercised jurisdiction with material irregularity. In the present case, although the trial Court's reasoning was flawed, the appellate Court corrected the legal approach and reached a conclusion that is firmly grounded in law. The result is legally correct and does not warrant interference.

22. In view of the foregoing discussion, I am of the considered view that the plaintiff did not disclose any enforceable contract within the meaning of Section 2 of the

Contract Act, 1872, nor did it disclose any cause of action for specific performance. Consequently, the Civil Revision Application is **dismissed**. The Judgment and decree dated 29.03.2024, passed by the appellate Court, and the order dated 16.09.2023, passed by the trial Court, are maintained. There shall be no order as to costs.

**JUDGE**

“Saleem”