

**JUDGMENT SHEET
IN THE LAHORE HIGH COURT, LAHORE
JUDICIAL DEPARTMENT**

Writ Petition No.12264 of 2022

Fatima Noon

Versus

Zia-ul-Haq Noon & others

J U D G M E N T

Date of hearing: 03.05.2023.

Petitioners by: M/s Sheikh Naveed Shahryar and Uneza Siddique, Advocates.

Respondents

No.2 & 3 by: Mr. Ahsan Shahzad, Advocate.

MUHAMMAD SAJID MEHMOOD SETHI, J.: This consolidated judgment shall also decide connected petition i.e. **W.P.No.12268 of 2022** as common questions of law and facts are involved in these cases.

2. Through these petitions, petitioners have assailed orders dated 12.02.2022 & 22.02.2022, passed by learned Civil Judge, Bhera and Additional District Judge, Bhalwal, respectively, whereby petitioners' applications under Order I Rule 10 CPC and under Order VI Rule 17 CPC for impleadment and for amendment in plaint, were concurrently dismissed.

3. Necessary facts of the case are that petitioners filed suits for declaration along with permanent injunction against respondents No.1 to 3, which were contested by them by way of filing written statements. During the course of proceedings, petitioners filed applications under Order I Rule 10 CPC and Order VI Rule 17 C.P.C. for impleadment and subsequent amendment in the plaint. The said applications were contested by respondents No.2 & 3 by filing written replies. Learned Trial Court, after hearing arguments of learned counsel for the parties, vide orders dated 12.02.2022,

dismissed said applications. Feeling aggrieved, petitioners filed revision petitions before learned Additional District Judge, which were dismissed vide orders dated 22.02.2022. Hence, these petitions.

4. Learned counsel for petitioners submits that fraud and fabrication has been committed in registration of general power of attorneys dated 05.02.1987 & 11.01.1994, registered by the Sub-Registrar, Lahore, therefore, impleadment of revenue officers / officials is necessary for just conclusion of the lis. He further submits that mere impleadment of the said officers / officials in the array of defendants and subsequent amendment in the plaint would not change the nature and complexion of the suits, however, learned forums below have dismissed petitioners' applications without any lawful justification. In the end, he has relied upon Haji Kadir Bux v. Province of SIND and another (PLJ 1982 Supreme Court 373) and Gulistan Textile Mills Ltd. and another v. Soneri Bank Ltd. and another (PLD 2018 Supreme Court 322).

5. On the other hand, learned Law Officer and learned counsel for respondents defend the impugned orders by contending that it is not necessary that the revenue officers / officials are required to be impleaded as party in each and every case.

6. Arguments heard. Available record perused.

7. Record shows that petitioner (Fatima Noon) filed suit for declaration along with permanent injunction calling into question the genuineness and legality of general power of attorney bearing No.267-4 dated 11.01.1994 shown to have been executed by the petitioner in favour of respondent No.1 (attested by Sub-Registrar, Lahore), and the subsequent mutations. Whereas, the suit on behalf of petitioner (Aalia Malik), with the alike prayer, is regarding general power of attorney No.900 dated 05.02.1987. During pendency of the suits, petitioners filed applications under Order I Rule 10 CPC and under Order VI Rule 17 CPC for impleadment of: (1) Province of Punjab through District Collector, Sargodha, (2)

Sub-Registrar, Lahore, and (3) Revenue Officer of concerned Halqa, in the array of defendants as defendants No.4 to 6, respectively; and for subsequent amendments to this effect in the headnote of the complaints and at the end of certain paras.

8. Undeniably, impleading the revenue officials in every case is not a rule of universal application rather depends upon the peculiar facts and circumstances of each case. If the Court finds that impleadment of revenue functionaries is necessary for just decision, it can pass appropriate orders. They can also be summoned by either side or if considered necessary even as Court witnesses. It is notable that when connivance of the revenue officials with the defendant(s) in attesting any mutation is alleged in civil suit, the Province of the Punjab as well as the revenue officials against whom the connivance for attestation of the mutation is alleged, are the necessary party because no valid adjudication can be carried out and no finding can be recorded against them in their absence. In the instant case, from the contents of applications for impleadment it is not discernible that connivance of revenue officials in registration of power of attorney in favour of respondent No.1 is specifically alleged by the petitioners, therefore, learned Courts below have rightly rejected the request. Reference can be made to Sikandar Hayat and another v. Sughran Bibi and 6 others (2020 SCMR 214) and Ghulam Muhammad v. Zohran Bibi and others (2021 SCMR 19).

As regards petitioner's application for amendment, it suffices it to say that when revenue officials are not necessary party to the lis, the proposed amendments being ancillary in nature are also not tenable, as rightly observed by learned Courts below.

9. Even otherwise, respondents are beneficiaries of registered power of attorney and subsequent mutations, therefore, under well-established principle of law, burden to prove genuineness of aforesaid documents lies on respondents in the light of law laid down in the cases reported as Muhammad Nazir v. Khurshid Begum

(2005 SCMR 941), Abdul Ghafoor and others v. Mukhtar Ahmad Khan and others (2006 SCMR 1144), Abdul Rehman and others v. Ghulam Muhammad through L.Rs. and others (2010 SCMR 978), Khan Muhammad v. Muhammad Din through LRs (2010 SCMR 1351), Khaliqdad Khan and others v. Mst. Zeenat Khatoon and others (2010 SCMR 1370), Amjad Ikram v. Mst. Asiya Kausar and 2 others (2015 SCMR 1) and Phul Peer Shah v. Hafeez Fatima (2016 SCMR 1225).

The case law cited by learned counsel for petitioners is distinguishable and not applicable to facts and circumstances of these cases.

10. Learned counsel for petitioners was unable to point out any illegality or legal infirmity in the concurrent decisions of learned Courts below, which are based upon correct appreciation of law and facts, thus, no interference in exercise of constitutional jurisdiction is warranted.

11. In view of the above, instant petition, along with connected petition, being devoid of merits, is hereby **dismissed**.

(Muhammad Sajid Mehmood Sethi)
Judge

APPROVED FOR REPORTING

Judge