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Judgment Sheet

IN THE LAHORE HIGH COURT, LAHORE

(JUDICIAL DEPARTMENT)

Civil Revision No.2592 of 2014

Abdul Sattar (deceased) through L.Rs.

vs.

Muhammad Yaseen (deceased) through L.Rs. and 5 others

JUDGMENT

Date of Hearing	**16.05.2024**
Petitioners by:	Mr. Imran Muhammad Sarwar, Advocate
Respondents No.1(A to F) by:	Ch. Masood Ahmad Zafar, Advocate
Respondents No.2 to 6	Nemo.

MUHAMMAD RAZA QURESHI, J. Through this Civil Revision under Section 115 of the Code of Civil Procedure, 1908 **("CPC")**, the petitioners have invoked supervisory jurisdiction of this Court against the judgment and decree dated 28.05.2014 passed by learned Additional District Judge, Pattoki, pursuant whereto the judgment and decree dated 01.06.2013 passed by the learned Trial Court in a suit for possession and specific performance of agreement to mortgage/sell was partially upended and accordingly modified by holding the petitioners only entitled to recover an amount of Rs.300,000/- from the respondents No.1(A to F) along with profit as per bank rate.

2. Learned counsel for the petitioners submits that the impugned judgment and decree passed by learned Appellate Court is illegal and unlawful as the learned Court below misread the evidence on record and committed material irregularity by modifying the judgment and decree passed by learned Trial Court. According to learned counsel, learned Appellate Court without evaluating the evidence led by the respective parties and justifying the proposed

modification has committed illegality and consequently, the impugned judgment and decree is liable to be set aside.

3. Conversely, learned counsel for the respondents submits that both the judgments and decrees passed by learned Trial Court and learned Appellate Court suffer from blatant illegality and learned Courts below failed to advert that the predecessor of the petitioners being plaintiff could not even prove the subject matter agreement, therefore, according to learned counsel, not only the reasoning contained in impugned judgment is defective but the one passed by learned Trial Court on account of misreading of evidence is also jurisdictionally flawed. According to learned counsel, the respondents through their Civil Revision bearing No.2660 of 2014 have also questioned the same judgment and decree. In alternate, learned counsel has argued that the modification ordered by learned Appellate Court is in the light of evidence led by the respective parties, therefore, at maximum the petitioners may recover an amount of Rs.300,000/- from the respondents No.1(A to F). The record of the case reflects that Respondents No.2 to 6 were personally served but nobody is present on their behalf consequently, they are proceeded *ex parte*.

4. Arguments of learned counsel for the parties have been heard and record has been perused with their able assistance. At the outset, there appears to be fallacy in the arguments agitated by the respondents that the impugned judgment and decree has already been questioned by the respondents through their independent Civil Revision. The copy of order dated 22.03.2019 passed by this Court reflects that Civil Revision No.2660 of 2014 filed by the respondents already stands dismissed for non-prosecution and to-date no effort has been made by them to get the said Petition restored. Therefore, the scope and ambit of resolution of controversy remains limited as to whether the learned Appellate Court was justified in partially upending the judgment and decree dated 01.06.2013 passed by learned Trial Court.

5. The facts culminating into impugned judgment and decree emanate from a suit filed by petitioner Abdul Sattar, who died during the suit proceedings and consequently his legal heirs were impleaded as plaintiffs. The subject matter suit was for possession through specific performance of agreement to mortgage/sell, which was filed against respondent No.1 Muhammad Yaseen. The contents of plaint demonstrate that Abdul Sattar and Muhammad Yaseen were real brothers. Muhammad Yaseen was owner of agricultural land admeasuring 21-Kanals 13-Marlas in *khewat* No.63, *khatuni* Nos.157 to 162 situated in Chak No.7, Tehsil Pattoki, whose ownership was duly reflected in the record of rights for the year 2006-07. Abdul Sattar through his suit claimed that Muhammad Yaseen through agreement to mortgage bearing No. 966 dated 24.05.2006 (wrongly mentioned in the suit as 04.05.2006) mortgaged 1½ *Acre* of land for securing an amount of Rs.300,000/- received from Abdul Sattar for a period of 1 year and it was settled between the parties that out of total land forming subject matter of mortgage, 06-Kanals would be transferred in the name of Abdul Sattar upon additional payment of Rs.125,000/- by him. The plaintiff in suit expressed his readiness and willingness to pay the amount of Rs.125,000/- and sought specific performance of agreement to mortgage/sell. Muhammad Yaseen filed written statement by contending that mortgage deed could not be converted into agreement to sell and subject matter land was also mortgaged with Agricultural Development Bank of Pakistan **("ADBP")** and since the amount of Rs.125,000/- was not paid by Abdul Sattar within stipulated time, therefore, he was debarred to seek specific performance of subject matter agreement. Interestingly, the contents of written statement though conceded existence and contents of subject matter agreement but in its paragraph No.5 Muhammad Yaseen contended that since Abdul Sattar failed to fulfil the conditions, therefore, he never executed any agreement to sell. So pleadings reflect contradictory pleas taken by Muhammad Yaseen without adverting to the fatal consequence of such defence.

6. During the pendency of the suit, another suit titled *"Muhammad Yaseen vs. Abdul Sattar"* was filed, which was a suit for declaration and cancellation of subject matter agreement. Pursuant to order dated 24.06.2009 passed by learned Trial Court, both the suits were consolidated and issues were framed therein. The order dated 30.10.2009 reflects that issues were re-casted and issue No.5-A was framed as an additional issue in the following term:

> *"5-A. Whether defendant Muhammad Yasin is entitled to get decree for declaration in suit titled Yasin vs. Sattar on the ground mentioned in the plaint? OPD"*

Subsequently, during the course of proceedings, through its orders dated 17.12.2012 the learned Trial Court on the premise that since property was also mortgaged with ADBP, therefore, returned the plaints in both the suits to the respective plaintiffs for their presentation before the Court of competent jurisdiction constituted under the provisions of the Financial Institutions (Recovery of Finances) Ordinance, 2001.

7. It appears from the record that only Abdul Sattar challenged the order dated 17.12.2012 returning his plaint for its presentation before the learned Banking Court and Muhammad Yaseen never challenged the order passed in his suit and to this extent the order passed in Muhammad Yaseen's suit attained finality. In Abdul Sattar's appeal the learned Appellate Court through order dated 28.02.2013 set aside the order passed in suit titled *"Abdul Sattar vs. Muhammad Yaseen"* and upon remand the proceedings re-started in the suit. This order attained finality and record also reflects that thereafter Muhammad Yaseen stopped pursuing his own suit and the only proceedings before the learned Trial Court remained pending adjudication were in the suit titled *"Abdul Sattar vs. Muhammad Yaseen".*

8. This Court through order dated 14.05.2024 summoned the file in Civil Revision No.2660 of 2014 and directed the parties to assist on the question why the learned Trial Court did not pass the consolidated judgment and decree. The record of C.R.No.2660 of 2014 reflects that

same got dismissed for non-prosecution through order dated 22.03.2019 and no effort was ever made by Muhammad Yaseen to get it restored and on his behalf only the impugned judgment and decree was challenged. Although one of the grounds to challenge the impugned judgment and decree was mentioned as non-determination of consolidated issue No.5-A but the record justifies that upon remand of matter through order dated 28.02.2013 the proceedings were no more treated as consolidated as order returning the plaint in the suit titled *"Muhammad Yaseen vs. Abdul Sattar"* was never questioned by Muhammad Yaseen and the proceedings were no more consolidated as before the learned Trial Court only one suit titled *"Abdul Sattar vs. Muhammad Yaseen"* remained pending.

9. Although in exercise of supervisory jurisdiction, this Court has identified that learned Trial Court while passing the judgment and decree did not discuss these aspects but since the status of respective litigations stood clarified upon perusal of record, therefore, the defect to the extent of non-adjudication of issue No.5-A stands clarified and cured as the said issue had become redundant. Therefore, to this extent the judgment and decree passed by the learned Trial Court cannot be questioned by the respondent Muhammad Yaseen.

10. Now adverting to the merits of the case to identify whether modification ordered by learned Appellate Court was justified? The perusal of pleadings as well as evidence on record reflects that most crucial issues were issues No.1 and 2. The onus to prove issue No.1 i.e. *"whether the defendant entered into agreement to mortgage as well as sell dated 24.05.2006* (wrongly mentioned as 04.05.2006) *with the plaintiff and received an amount of Rs.300,000/- as earnest money"* was placed upon Abdul Sattar, whereas the onus to prove issue No.2 i.e. *"whether the alleged agreement to mortgage as well as sell dated 24.05.2006 is void, against the law and facts and liable to be set aside"* was placed upon defendant Muhammad Yaseen.

11. The subject matter agreement to mortgage/sell bearing No. 966 dated 24.05.2006 was adduced in evidence as Exh-P1 and PW-1 Basheeri Bibi widow of Abdul Sattar deposed that her husband affixed his thumb impression on Exh-P1 and paid the secured amount of Rs.300,000/- to Muhammad Yaseen for the subject matter land, who had mortgaged the property and after perusing the terms and conditions of subject matter agreement it was agreed between the parties that in case Muhammad Yaseen failed to repay the mortgage money after one year, the land admeasuring 1½ acre was to remain in possession of Abdul Sattar who upon payment of an additional amount of Rs.125,000/- was entitled to get 6-Kanals land transferred in his name. PW-1 deposed in her evidence about the stamp vendor, namely, Abdul Rehman as well as Muhammad Ishaq and Muhammad Aslam as the marginal witnesses. Abdul Rehman, stamp vendor appeared in the witness-box as PW-2, whereas Muhammad Ishaq, one of the marginal witnesses appeared as PW-3. The examination of depositions of both the witnesses reflect that they corroborated the evidence of PW-1. All the witnesses appearing on behalf of the plaintiff categorically and consistently deposed about the execution of subject matter agreement, acknowledged the contents thereof and corroborated about the payment of an amount of Rs.300,000/- by Abdul Sattar to Muhammad Yaseen.

12. In defence, Muhammad Yaseen himself appeared in the witness-box as DW-1 and conceded the execution of Exh-P1 but termed it as mortgage deed and deposed that it was never meant to be used as agreement to sell. For ready reference the cross-examination of DW-1 Muhammad Yaseen is reproduced hereunder:

> یہ درست ہے کہ ExP1 پر میرا دستخط و نشان انگوٹھا ExP1/4 ہیں۔ جس کے اوپر میرا شناختی کارڈ نمبر 421011895434 درج ہے۔ ExP1 کی پشت پر میرا دستخط و نشان انگوٹھا ExP1/5 ہیں۔ اقرار نامہ ExP1 میں میں نے یہ بات نہ لکھوائی ہے کہ میں نے مبلغ تین لاکھ روپے وصول نہ کئے ہیں۔ یہ بات بھی اقرار نامہ میں نہ لکھوائی تھی کہ ایک لاکھ پچیس ہزار روپے کی ادائیگی یکم بیساکھ 2002 کو ادا کرنی تھی۔ میں نے صرف یہ لکھایا کہ تین لاکھ وصول کیے ہیں۔

13. Incidentally, Muhammad Aslam (DW-2) the second marginal witness of subject matter agreement appeared on behalf of Muhammad Yaseen who admitted that agreement (Exh-P1) was executed in his presence and he recognized his signatures as Exh-P1/6 in the following terms:

بیان کیا کہ اقرار نامہ ExP1 میرے سامنے ہوا تھا۔ میں نے Exh-P1/6 دستخط کیے------
اقرار نامہ ExP1 ڈیڑھ ایکڑ اراضی کے رہن کے متعلق تھا جو کہ بالعوض تین لاکھ تھا.

However, his deposition was adverse to the interests of Abdul Sattar only to the extent that no transaction of amount took place in his presence. He conceded in his deposition that both the brothers Abdul Sattar and Muhammad Yaseen throughout enjoyed cordial relations with each other. The statement of Muhammad Aslam (DW-2) to the extent of payment of Rs.300,000/- is shady, unreliable and not creditworthy as in his own evidence Muhammad Yaseen had conceded about the payment of Rs.300,000/-. The witness DW-2 callously and evasively deposed that he was not aware of the terms and conditions with respect to the payment of Rs.125,000/- and transfer of 6-Kanals land in lieu thereof. The statement of DW-2 has not been considered trustworthy because under the law if there is contradiction in oral statement and documentary evidence the latter is to be trusted as a witness can lie but a document cannot. It becomes more credible when witness himself admits his signature or thumb impression on the subject matter document i.e. Exh.P-1. In such circumstances it is settled law that documentary evidence takes precedence over oral deposition. Reliance in this regard is placed upon judgments reported as *Muhammad Mumtaz Shah (deceased) through LRs. and others vs. Ghulam Hussain Shah (deceased) through LRs. and others* **(2023 SCMR 1155)**, *Tassaduq Hussain Shah and others vs. Allah Ditta Shah and others* **(2023 SCMR 1635)**, *Muhammad Akbar and others vs. Province of Punjab through DOR, Lodhran and others* **(2022 SCMR 1532)** and *Shamshad vs. Arif Ashraf Khan and others* **(2010 SCMR 473).**

14. The perusal of evidence led by respective parties established that not only the existence of subject matter agreement stood admitted and proved as stamp vendor (PW-2), marginal witnesses, namely, Muhammad Ishaq (PW-3) and Muhammad Aslam (DW-2) conceded its execution but the contents thereof also stood established during the course of evidence. All these facts were duly accounted for by the judgment and decree passed by learned Trial Court who lawfully appreciated the oral as well as documentary evidence and decided issue No.1 in favour of plaintiff Abdul Sattar and rightly declared that defendant Muhammad Yaseen failed to prove issue No.2. Consequently through judgment and decree dated 01.06.2013 passed a decree in favour of legal heirs of Abdul Sattar who died during the course of proceedings and directed his legal heirs to pay the remaining sale consideration in the sum of Rs.125,000/- within a period of one month from passing of the judgment and decree. The parties before this Court conceded that said amount was deposited on behalf of the petitioner Abdul Sattar within the time stipulated by the learned Trial Court.

15. Incidentally, upon appeal filed by Muhammad Yaseen the learned Appellate Court though admitted the transaction and payment of amount by holding that it stood proved yet declared that since the property was mortgaged with ADBP, therefore, no transaction with the nature of agreement to sell could have taken place and ultimately learned Appellate Court held that agreement to mortgage/sell Exh-P1 shall be enforced in the manner that the amount of Rs.300,000/- shall be paid along with bank profit by Muhammad Yaseen to legal heirs of Abdul Sattar and that is why the appeal filed by Muhammad Yaseen was partially allowed.

16. The reasoning and findings contained in the impugned judgment and decree appear to be self-contradictory, shady and meaningless and justification adopted by learned Appellate Court appears to be full of fallacy and beyond any legal sense. The learned Appellate Court dealt with the matter in a sketchy manner even without discussing the evidence and merits of the case. The conclusions drawn in paragraph

No.7 of the impugned judgment dated 28.05.2014 are contrary to law, bereft of any logic, reasoning and discussion of evidence in detail and hence suffer from material illegality. The findings with respect to recovery of Rs.300,000/- were irrelevant as the subject matter suit did not even pertain to this limited question. The core question was whether Abdul Sattar upon payment of Rs.125,000/- was entitled to get 6-Kanals land transferred in his favour?

17 Even otherwise under the provisions of the Transfer of Property Act, 1877, the transaction with respect to mortgaged property in favour of any financial institution does not become void as the mortgage rights of a financial institution remain intact and the transferee of the property remains under an obligation to pay the mortgage money to the creditor. Therefore, the findings of the learned Appellate Court that since ADBP's stance is not available, therefore, the subject matter agreement could not have been executed and suit cannot be decreed are contrary to law. Reliance in this respect is placed upon the judgments reported as *Citibank N.A. through Manager vs. Muhammad Akbar and 3 others* **(2005 CLD 384)**,*Muhammad Sadiq and others vs. Muhammad Mansha and others* **(PLD 2018 SC 692)** and *Mst. Saima Naeem vs. Habib Bank Limited through Manager/Officer/Attorney and another* **(2023 CLD 1244)**. In paragraph 6 of the report under title of Muhammad Sadiq case *supra* the Hon'ble Supreme Court clearly declared the position of law as under:-

> *"6. In our view, law that was regarded as settled 125 years ago can hardly be disturbed today. As will be seen from the foregoing passages, the equity of redemption is simply the interest in the property that remains with the mortgager minus the interest created thereon in favour of the mortgagee, and it is in this interest that can be dealt with by the mortgager in accordance with law. It follows from this that if the mortgager enters into an agreement to sell subsequent to the creation of the mortgage, he can do so. He is then selling his property burdened as it is with the mortgage in favour of the mortgagee, i.e., he is disposing off the equity of redemption. As this is permissible under law, it follows that if the mortgager having entered into such an agreement to sell does not abide by the same, then the buyer of the property is entitled to bring a suit for specific performance. Of course, the rights and interests of the mortgagee will not be defeated, since the buyer will step into the shoes of the mortgager as seller. If the factum of the mortgage is known to the buyer then he can simply join the mortgagee as a defendant in the suit so that*

> *if he succeeds in obtaining a decree for specific performance the rights of the various parties can be appropriately dealt with. However, even if the factum of mortgage is unknown to the buyer and does not come to light during the course of the suit, any decree obtained by the buyer would still, and nonetheless, remain subject to the rights and interests of the mortgagee."*

18. The learned Trial Court had rightly arrived at a conclusion that existence as well as contents of subject matter agreement stood proved, the contrary conclusion arrived at by the learned Appellate Court is not only illegal due to misreading of evidence but also suffers from serious material irregularity as the judgment and decree passed by the learned Trial Court could not have been reversed or modified under settled principles of law. The impugned judgment and decree passed by the learned Appellate Court appears to be sketchy and without any evaluation of evidentiary material and substantiation of settled principle of law and it appears that the learned Appellate Court evaluated the merits of the case in a slipshod manner. In legal parlance, any verdict or judgment without containing justified reasoning to set aside the judgment and decree passed by the learned trial court cannot sustain in the eyes of law. There could be no denial to legal position that appellate Court can competently reverse the findings of the trial Court but such reversal must always be backed by better and sustainable legal reasoning. The appellate Court evolved findings arbitrarily and illegally on imaginary principles and exercised its jurisdiction unlawfully suffering from material irregularities and therefore, same are not sustainable in the eyes of law. Reliance in this respect is placed upon the judgments reported as *Madan Gopal and 4 others vs.Maran Bepari and 3 others* **(PLD 1969 SC 617)**, *Raja Hamayun Sarfraz Khan and others vs. Noor Muhammad* **(2007 SCMR 307)** and *Abdul Jabbar and 8 others vs. Ghulam Mustafa and 6 others* **(2019 CLC 704)**.

19. Although respondents No.2 to 6 have been proceeded *ex parte* but here it is imperative to analyze status of their rights in the subject matter property. Upon institution of instant Petition this Court through order dated 19.08.2014 passed an injunctive order in C.M.No.1-C of 2014 directing respondent No.1 that suit property would not be alienated

to a third person. Despite the existence of afore-referred injunctive order, the legal heirs of respondent No.1 had audacity to transact the subject matter property by selling the same to respondents No.2 to 6 through registered sale deeds bearing Nos.873, 874 and 875 all dated 30.03.2016. Upon attaining knowledge the petitioners forthwith filed an application bearing C.M.No.2-C of 2016 seeking their impleadment as respondents. Pursuant to order dated 14.06.2016 the respondents No.2 to 6 were ordered to be impleaded as respondents.

20. It appears that legal heirs of respondent No.1 willfully disregarded the order of this Court tending to alter the position and status of the property in a judicial dispute and recklessly and wantonly changed the status of the property while the application for interim relief had received active consideration of this Court. Such manipulated intervention through act of commission has never been brooked by the courts. A party attempting to act in anticipation of the final order or judgment of a court or trying to steal march over its adversary, already in court or acting in a manner suggestive of a race against the law is liable to correction and all that needed to be considered is the corrective measures to uphold and maintain the majesty of law. Reliance in this regard is placed upon *Saif ur Rehman vs. Muhammad Ayub and 2 others* **(1998 CLC 1872)**.

21. Obviously, when the suit was filed the subject matter controversy was limited to the rights and interests of Abdul Sattar and Muhammad Yaseen. The Court of first instance conditionally decreed the suit in favour of Abdul Sattar. The learned Appellate Court below modified the said judgment and decree and matter appeared before this Court in exercise of supervisory jurisdiction. Till then respondents No.2 to 6 had not purchased the subject matter property and same took place only during the pendency of instant Revision Petition. The sale in their favour was, clearly hit by the doctrine of *lis pendens* which finds legislative recognition in section 52 of the Transfer of Property Act, 1882. The respondents No.2 to 6 cannot use the shield of *bona fide* purchaser to claim that they were not aware of the pendency of instant

proceedings and that principle of *lis pendens* has no applicability in their case.

22. The principle of *lis pendens* has its genesis in maxim "*ut lite pendente nihil innovetur*" *(during a litigation nothing new should be introduced).* Therefore, whether respondents No.2 to 6 had knowledge of litigation *inter se* Abdul Sattar and Muhammad Yaseen or not is immaterial. So long as the sale of property forming subject matter of instant Petition is made *pendente lite* which includes stages of suit proceedings, appeal, revision petition and/or final adjudication of rights and interests of a party by the Hon'ble Supreme Court of Pakistan finally terminating the *lis* in either way, the principle of *lis pendens* applies regardless of the plea of *bona fide* purchasers, especially when an injunctive order was operative in the Petition. The Hon'ble Supreme Court of Pakistan in case reported as *Industrial Development Bank of Pakistan through Deputy Chief Manager vs. Saadi Asmatullah and others* **(1999 SCMR 2874)** has already declared that plea of *bona fide* purchaser of suit property for value without notice does not offset or dilute the principle of *lis pendens* by holding that *even a bona fide purchaser with consideration pendente lite would be bound by the result of the litigation as his rights in such property would be subject to the rights of the parties to the litigation as finally determined by the Court.*

23. The alienation or transfer *pendente lite* is not simpliciter based upon the principle that filing of a suit is notice to whole world but more so on the public policy that no one should be allowed to affect the rights of the parties pending the decision of cause before a Court of law. It is useful to refer to *Beliamy v. Shabine* (1857) 1 De G. and J 566 in which the rationale on which the doctrine of *lis pendens* rests was propounded by Turner L.J. in the following words:-

> *"It is as I think, a doctrine common to the Courts both of Law and Equity and rests, as I apprehend, upon this foundation---that it would plainly be impossible that any action or suit could be brought to a successful termination, if alienations pendente lite were permitted to prevail, the plaintiff would be liable in every case to be defeated by the defendant's alienating before the judgment or decree, and would be driven to commence his*

> *proceedings de novo, subject again to be defeated by the same course of proceeding."*

In the same semblance Lord Cranworth explained that the doctrine did not rest on the ground of notice and observed that:

> *"It is scarcely correct to speak of lis pendens as affecting a purchaser through the doctrine of notice, though undoubtedly the language of the Courts often so describes its operation. It affects him not because it amounts to noticed, but because the law does not allow litigant parties to give to others, pending the litigation, rights to the property in dispute, so as to prejudice the opposite-party. "*

24. The respondents No.2 to 6 purchased the property in dispute from legal heirs of Muhammad Yaseen during the pendency of instant Petition. Hence, for all intent and purposes by getting the property transferred in their favour during pendency of instant Petition, the respondents No.2 to 6 have stepped into the shoes of legal heirs of Muhammad Yaseen and the subject matter agreement will be specifically enforced in favour of the petitioners against them in terms of section 29(b) of the Specific Relief Act, 1877 which ordains that not only the parties to agreement but also their successors are bound by it. The only exception in this behalf is that of *bona fide* purchaser for value without notice on any existing agreement. It is a settled position of law that in case of conflict of two principles '*bona fide purchaser' versus 'lis pendens'* the latter is to prevail. Therefore, the respondents No.2 to 6 cannot use the shield of *bona fide* purchasers as they admittedly purchased the subject matter property during pendency of the instant Petition and being successors of legal heirs of Muhammad Yaseen are bound to convey the property to the petitioners. Reliance in this regard is placed upon judgments reported as *Abdus Saeed Khan and 2 others vs. Basharat Ali and 13 others* **(PLD 1995 Lahore 255)** and *Ms.Sara Bibi vs. Muhammad Saleem and others* **(PLD 2021 Islamabad 236).**

25. Therefore, respondents No.2 to 6 to the extent of their claim having same status of the legal heirs of Muhammad Yaseen being successors-in-interest would sail and sink along with legal heirs of Muhammad Yaseen.

26. Having analyzed the *lis* from all aspects with consultation of lower Court record and after minute evaluation of evidence led by the respective parties, this Court holds that the impugned judgment and decree dated 28.05.2014 passed by the learned Appellate Court is not sustainable in the eyes of law and the judgment and decree passed by the learned Trial Court is declared to be lawful, weighty and creditworthy. As a consequence thereof, this Civil Revision is **allowed,** the impugned judgment and decree dated 28.05.2014 passed by the learned Appellate Court is **set aside** and suit filed by the petitioners is **decreed** in terms of judgment and decree dated 01.06.2013 passed by learned Trial Court. There is no order as to costs.

(MUHAMMAD RAZA QURESHI)
JUDGE

Syed zameeer