

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

C.A NO. _____ /L/2025

Mst. Tahira Begum alias Tahira Shafique etc **Appellants**

Versus

Zulfiqar Ahmad Khan

Respondent

Court appealed from:

Lahore High Court, Lahore
against judgment dated
29.05.2025 passed in Civil
Revision No.215931 of 2018

Counsel for the Appellants:

Chaudhry Abdul Majeed ASC
With M. Yasin Farrakh
Advocate on Record

Counsel for the Respondent:

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Counsel for the Appellants:

**Chaudhry Abdul Majeed ASC
With M. Yasin Farrakh
Advocate on Record**

Counsel for the Respondent:

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Certified that this paper book has been prepared in accordance with rule and relevant documents have been included in it.

M. YASIN FARRAKH

Advocate on Record
Supreme Court of Pakistan
Lahore

TEMPLATE FORM

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

C.P.L.A NO. _____ /L/2025

Mst. Tahira Begum alias Tahira Shafique etc **Appellants**

Versus

Zulfiqar Ahmad Khan

Respondent

Bench Jurisdiction: Constitutional Bench/ Regular Bench

Whether vires of any law have been challenged or interpretation of any constitutional provision is involved

Yes No

Case Category	Civil Matter
Sub-Category	Suit U/S 35 o Specific Relief Act, For Recession of Possession regarding Agreement
Gist of the Case before High Court	Civil Revision of the Respondent was allowed by the Honorable High Court.
Question of Law Involved	Whether the Honorable Lahore High Court, while exercising revisional jurisdiction, was justified in interfering with the concurrent findings of fact recorded by the Trial Court and the First Appellate Court in the absence of any jurisdictional error, misreading, or non-reading of evidence?

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B

IN THE SUPREME COURT OF PAKISTAN
[APPELLATE JURISDICTION]

Civil Appeal No. _____ -L/2025

Mst. Tahira Begum Alias Tahira Shafique

VERSUS

Zulfiqar Ahmad Khan

CONCISE STATEMENT

1. Subject matter and the law	Petition for leave to appeal under Article 185(3) of the Constitution of Islamic Republic of Pakistan, 1973
2. Which side has filed this appeal	Appellant

Court From	Date (a) Filing (b) Decision	Who filed it and with what result
(i) Senior Civil judge Faisalabad	a) 01-12-2009	The appellant filed a suit for rescission of contract
(ii) Civil Judge, Faisalabad	b) 03-12-2014	The suit of the appellant was disposed off.
(i) Lahore High Court, Lahore	a) 16-07-2016	The appellant preferred an appeal (R.F.A), however, due to enhancement in pecuniary jurisdiction, the appeal was transferred to District Judge.
(ii) Add. District Judge Faisalabad	b) 27-02-2018	The appeal of the appellant was accepted resultantly the suit for rescission was decreed.
(i) Lahore High Court, Lahore	a) 27-4-2018	The respondent preferred civil revision petition No. 215929/2018
(ii) The learned Single Judge of the Lahore High Court, Lahore	b) 29-05-2025	The civil revision petition was allowed and the suit for rescission of contract was dismissed.

Facts of the case are on 03-10-2009, the appellant filed a suit for rescission of contract dated 06-08-2007 titled "Tahira Begum and Zulfiqar Khan", and also prayed for recovery of possession of the suit premises on the ground that through an agreement to sell dated 06-08-2007 the respondent had paid only Rs:10,00,000/- out of sale consideration of Rs:1,50,00,000/- and respondent had not performed the

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terms of the agreement. On the other hand, on 01-12-2009, the respondent filed a suit for declaration, confirmation of possession through specific performance titled "Zulfiqar Ahmad Vs. Tahira Begum and others". Both the suits were consolidated vide order dated 26-03-2014. The learned Trial Court, *after framing the issues and recording the evidence of parties*, vide consolidated judgement and decree dated 03-12-2014 decreed the suit filed by the respondent titled "Zulfiqar Ahmad Vs. Tahira Begum and others" subject to the payment of rupee 90-lac to the respondent No.1 along with inflation of value of money @ 14% w.e.f. 22-12-2007 within a period of one month otherwise the suit of the respondent deemed to have been dismissed, and the suit of the appellant titled "Tahira Begum and Zulfiqar Khan" was disposed of. That the appellant preferred an appeal against the consolidated judgment and decree dated 03-12-2014 by filing an RFA before the Lahore High Court, Lahore. That the respondent also preferred an appeal against the consolidated judgment and decree dated 03-12-2014 in the Lahore High Court, Lahore. Due to enhancement in pecuniary jurisdiction, both the appeals were transmitted to the District Court and the both the appeals came up for hearing before learned Addl. District Judge Faisalabad. The learned Appellate Court vide consolidated judgment and decree dated 27-02-2018 accepted the appeal filed by the appellant and dismissed the suit for specific performance filed by the respondent, and decreed the suit for rescission of contract filed by the appellant directing the respondent/ Zulfiqar Ahmad to pay Rs.5,000/- per month per shop from the date of agreement till handing over the possession of the suit property to the appellant with mark-up at bank rate. The respondent filed a review petition against judgment & decree of learned Appellate Court/ learned Addl. District Judge, Faisalabad. During review proceeding the respondent g t recorded his statement on 20-03-2018, thereafter, the review petition was dismissed as withdrawn vide order dated 31-08-2018. The respondent filed two civil revision petitions No.215929/2018 & civil revision petition No 215931/2018 titled "Zulfiqar Ahmad Khan Vs. Tahira begum alias Tahira Shafique" in the Lahore High Court, Lahore. During the proceedings of the civil revision petitions, the respondent filed an application under Order 41 Rule 27 of CPC for production of document as additional evidence which was allowed and the evidence was recorded. Both the civil revision petitions came up for hearing before the learned Single Judge of the Lahore High Court, Lahore. The learned Single vide consolidated judgment and decree dated 29-05-2025 allowed the civil revision petitions, and the judgment & decree dated 03-

12-2014 passed by the trial Court to the extent of condition of deposit of Rs.90 lac along with inflation of money at the rate of 14% w.e.f 22-12-2007 as well as judgment & decree dated 27-02-2018 of the learned Appellate Court was set aside and the suit for declaration, confirmation of possession through specific performance, permanent & mandatory injunction etc. filed by the respondent was decreed and suit for rescission of contract filed by the appellant was dismissed, hence this civil appeal.

It is certificated that this concise statement is prepared by me and is complete and correct almost in all respect.


M. YASIN FARRAKH
Advocate-on-Record
Supreme Court of Pakistan
Lahore
For the Appellant

Dated: ___/07/2025
Lahore.

IN THE SUPREME COURT OF PAKISTAN
[APPELLATE JURISDICTION]

PTO
Institution Section
Dy. No. 10350
Date 25/7/25
Initials

28-7-25
by Mr. Yousaf Farooq AOR
Advocate

PA - Mailed

Civil Appeal No. _____ -L/2025

Tahira Begum Alias Tahira Shafique d/o Noor Muhammad R/o
Mian House Ravi Mohalla Tehsil Samundri District Faisalabad
through General attorney Muhammad Irshad Ali Ch. S/o
Muhammad Siddique

JJ

One is
superfluous
as
it does not
exist.

...APPELLANT

VERSUS

Zulfiqar Ahmad Khan S/o Baaz Khan caste Rajput R/o Chak
No.208/RB Tehsil & District Faisalabad

....RESPONDENT

**CIVIL APPEAL UNDER ARTICLE 185(2)(D) OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN,
1973 AGAINST JUDGMENT AND DECREE DATED 29-05-
2025 PASSED BY HON'BLE LAHORE HIGH COURT,
LAHORE IN CIVIL REVISION NO. 215931/2018**

Respectfully Sheweth,

That the following points of law arise for determination by this honourable Court in the civil appeal.

QUESTIONS OF LAW:

7 days time is allowed to do
the needful.

Dated
20/8/25
AOR

- PLaintiff Seven
days time 1) Whether the learned High Court was justified in interfering
with a well-reasoned judgment of the Appellate Court through
revision under Section 115 CPC, particularly when no
misreading or non-reading of evidence was established?

7 days time is allowed to do
the needful.

DR(L)

PLaintiff Seven
days time 20-8-25
13/8/25 AOR

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Civil Appeal No. _____ /L/2025

1. **Tahira Begum alias Tahira Shafique** daughter of Noor Muhammad, Caste Arain, Resident of Mian House, Mian Street, Ravi Mohallah, Tehsil Samundari, District Faisalabad, presently Resident of Al-Syma, Clare Road, Ballyhooing Country Mayo, Republic of Ireland.
2. **Muhammad Irshad Ali Ch.** Son of Ch. Muhammad Siddique, Caste Arain, Resident of Chak No.420/JB, Post Office Gojra, Tehsil Gojra District Toba Tek Singh, Tehsil Samundari, District Faisalabad, the General Attorney of Tahira Begum alias Tahira Shafique (Petitioner No.1)

APPELLANTS

VERSUS

Zulfiqar Ahmad Khan Son of Baaz Khan, Caste Rajput, Resident of Chak No.208-RB, Tehsil & District Faisalabad.

RESPONDENT

**CIVIL APPEAL UNDER ARTICLE 185 (2) (D) (E) OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973
AGAINST THE IMPUGNED JUDGMENT DATED 29.05.2025,
PASSED BY THE HONOURABLE LAHORE HIGH COURT,
LAHORE IN CIVIL REVISION NO.215931 OF 2018**

Respectfully sheweth:-

1. That following questions of law and facts arise from the Impugned judgment and require determination by this August Court.

LAW POINTS

- 1) Whether the learned High Court was justified in interfering with a well-reasoned judgment of the Appellate Court through revision under Section 115 CPC, particularly when no misreading or non-reading of evidence was established?

- 2) Whether the learned Single Judge of the Lahore High Court, sitting in chambers, was vested with jurisdiction to entertain the application filed under Order XLI Rule 27 of the CPC; and if so, whether upon allowing the said application, the matter was not required to be remanded to the lower court for recording evidence and rendering findings thereon?
- 3) Whether allowing the application filed under Order 41 Rule 27 of CPC filed by respondent is not amount to snatch the one right of appeal of the petitioner?
- 4) Whether the questioned documents, which were sought to be produced at the revisional stage, were in fact the subject matter of execution proceedings under Order XXI CPC, and if so, whether these could be made ground to file the revision petition before High Court?
- 5) Whether the learned Revisional Court, without adjudicating the real subject matter of the revision petition, erred in recording and relying upon post events pertaining to a compromise, which had emerged after decision of the suit by learned Appellate Court?
- 6) Whether the Revisional Court, by deciding the revision petition without touching the merits of the original dispute and by indulging in appreciation of post-suit developments, committed an illegality which is result excess exercise of jurisdiction?
- 7) Whether it is not established on record that the respondent had taken false plea with respect to the payment of Rs.90,00,000/-, and if so, any person who approaches the Court for equitable relief files suit with dishonest intention he was entitled to get discretionary relief of specific performance?

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- 8) Whether the respondent having any plausible reason or explanation for non-deposit of the remaining sale consideration after the decision firstly by the learned Trial Court and secondly by learned Appellate Court and such conduct of the respondent does not disentitle the respondent to seek relief of specific performance?
 - 9) Whether the findings of the learned Trial Court, which held that the respondent failed to pay Rs.90,00,000/-, were not wrongly ignored by the learned High Court while awarding a decree for specific performance in favour of the respondent?
 - 10) Whether a different view could lawfully be taken by the High Court against the findings recorded by the learned Appellate Court, particularly in the absence of any material misreading or non-reading of evidence?
 - 11) Whether after a lapse of sixteen years, the learned Single Judge was competent to reopen the concluded factual controversy and grant a relief of specific performance to the respondent in disregard of principles of equity?
 - 12) Whether after delivery of possession, there was any exception available for the respondent not to deposit the remaining sale consideration amount in the Court?
 - 13) Whether the respondent was not given unfair advantage from the agreement and Explanation I of Section 22 of the Specific Relief Act, 1877 does not disentitle to grant relief of specific performance?
 - 14) Whether the respondent after entering into possession has not taken unfair advantage in the form of rent of 33-shops in commercial plaza which are located in the heart of city especially when he deposited nominal amount of advance

sale consideration of Rs.10,00,000/- out of total sale consideration of Rs.1,50,00,000/- then there was any scope of awarding a decree of specific performance in favour of respondent and it is precedent laid down in judgment reported in 2017 SCMR 1696?

- 15) Whether the decision in a suit for specific performance can validly be based on post-suit events and circumstances not forming part of the original pleadings or evidence in trial court?
- 16) Whether the documents produced under Order XLI Rule 27 CPC allegedly showing out-of-court payment, when juxtaposed with the respondent's own statement that the payment was made in court, do not amount to false and contradictory pleas, and whether such conduct could still justify acceptance of the revision petition by the learned Single Judge?
- 17) Whether the learned Single Judge while upholding the decree for specific performance, has not failed to appreciate that the respondent's continuous delay of seven years without any satisfactory explanation in performing the terms of the agreement and payment of the remaining sale consideration disentitled him to the discretionary relief of specific performance under Explanation I to Section 22 of the Specific Relief Act, 1877?
- 18) Whether the learned Single Judge has not erred in law by awarding the relief of specific performance of an agreement dated 06-08-2007 where the respondent had admittedly received possession but had failed to discharge the financial obligation and enjoyment of the benefit of possession without payment of substantial sale consideration?

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- 19) Whether the learned High Court has given due weight to the observation of learned Trial Court that the plea of payment of Rs. 90,00,000/- by the respondent was not proved, and this default in the payment of sale consideration does not disentitle the respondent to get the relief of specific performance?
- 20) Whether in the admitted breach of contractual terms and the respondent's failure to perform within the stipulated time, the refusal of the High Court to grant decree for rescission of contract in favour of the appellant is not amount to non-exercise or erroneous exercise of jurisdiction?
- 21) Whether the learned Single Judge of the Lahore High Court has not failed to consider that the clause of regarding forfeiture in the agreement to sell stood attracted on account of admitted default on part of the respondent, and in such circumstances, then granting decree for specific performance is sustainable under the law?
- 22) Whether the findings of the High Court, that specific performance can still be granted despite breach and failure to prove payment of consideration, are not contrary to the settled principles of equity, particularly in view of the respondent's lack of clean hands and false plea of payment of Rs. 90,00,000/-?
- 23) Whether the High Court, while granting equitable relief of specific performance, committed material irregularity by not considering the conduct of the respondent who enjoyed possession of the suit property for several years without making the payment of balance payment which caused financial loss to the appellant, and in light of longstanding possession of the property by the respondent, the learned High Court was required to at least grant relief to the

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appellant for mesne profits or compensation for use and occupation of the property, but erroneously failed to do so?

- 24) Whether the learned Single Judge of the Honourable Lahore High Court has not failed to appreciate that breach of the agreement was proved on record and non-performance of the terms of the agreement was established then non-awarding the decree of rescission of contract to the appellant is not amount to miscarriage of justice and is against the statutory provision of reciprocal performance embodied under the Specific Relief Act, 1877?
- 25) Whether the learned Single Judge of the Lahore High Court has not erred in appreciating that in a suit for specific performance, the time, bona fide conduct, and readiness and willingness to perform are decisive prerequisites, and in the admitted absence of such elements on part of the respondent including his deliberate delay of over seven years and failure to make the payment of balance consideration, the decree for specific performance could be granted?
- 26) Whether there was no illegality or irregularity in the impugned orders?

QUESTIONS OF FACT

1. That on 03-10-2009, the appellant filed a suit for rescission of contract dated 06-08-2007 titled "Tahira Begum and Zulfiqar Khan", and also prayed for recovery of possession of the suit premises on the ground that through an agreement to sell dated 06-08-2007 the respondent had paid only Rs:10,00,000/- out of sale consideration of Rs:1,50,00,000/- and respondent had not performed the terms of the agreement.

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2. That on the other hand, on 01-12-2009, the respondent filed a suit for declaration, confirmation of possession through specific performance titled "Zulfiqar Ahmad Vs. Tahira Begum and others".
 3. That both the suits were consolidated vide order dated 26-03-2014.
 4. That out of pleadings of the parties the following consolidated issues were framed:

ISSUES

- 1) Whether defendant no.2 being lawful general power of attorney of defendant No.1 entered into an agreement to sell with respect to subject matter property details of which are mentioned in head note of the plaint through agreement to sell No.1098 dated 06-08-2007 against the consideration of Rs:1,50,00,000/- and received Rs:10,00,000/- as earnest money in presence of witnesses? OPP
- 2) Whether defendant No.2 further received Rs:90,00,000/- in presence of witnesses from the plaintiff and only Rs:50,00,000/- are outstanding towards the plaintiff? OPP
- 3) If the above said issues are proved in affirmative whether the plaintiff being owner in possession is entitled to get a decree for declaration of rights, confirmation of possession through specific performance, permanent and mandatory injunction with respect to suit property as prayed for? OPP
- 4) Whether the plaintiff only paid Rs:10,00,000/- as consideration amount and failed to pay the remaining amount and contract became void? OPP
- 5) Whether defendant Tahira Begum is entitled to get a decree for recession of contract U/S 35 of Specific Relief Act as prayed for? OPD
- 6) Whether suit of defendant is barred by law being result of misconception? OPP
- 7) Whether the suit of defendant is counter blast of the suit of the plaintiff? OPP

- 8) Whether defendant has not come to the court with clean hands? OPP
- 9) Relief.
5. That the learned Trial Court, *after framing the issues and recording the evidence of parties*, vide consolidated judgement and decree dated 03-12-2014 decreed the suit filed by the respondent titled "Zulfiqar Ahmad Vs. Tahira Begum and others" subject to the payment of rupee 90-lac to the respondent No.1 along with inflation of value of money @ 14% w.e.f. 22-12-2007 within a period of one month otherwise the suit of the respondent deemed to have been dismissed, and the suit of the appellant titled "Tahira Begum and Zulfiqar Khan" was disposed of.
6. That the appellant preferred an appeal against the consolidated judgment and decree dated 03-12-2014 by filing an RFA before the Lahore High Court, Lahore.
7. That the respondent also preferred an appeal against the consolidated judgment and decree dated 03-12-2014 in the Lahore High Court, Lahore.
8. That due to enhancement of pecuniary jurisdiction, both the appeals were transmitted to the District Court/ District Judge and the both the appeals came up for hearing before learned Addl. District Judge Faisalabad
9. That learned Appellate Court vide consolidated judgment and decree dated 27-02-2018 accepted the appeal filed by the appellant and dismissed the suit for specific performance filed by the respondent, and decreed the suit for rescission of contract filed by the appellant directing the respondent/ Zulfiqar Ahmad to pay Rs.5,000/- per month per shop from the date of agreement till handing over the possession of the suit property to the appellant with mark-up at bank rate.

10. That the respondent filed a review petition against judgment & decree of learned Appellate Court/ learned Addl. District Judge, Faisalabad. During review proceeding, the respondent got recorded his statement on 20-03-2018, thereafter, the review petition was dismissed as withdrawn vide order dated 31-08-2018.
11. That the respondent filed two civil revision petitions No.215929/2018 & civil revision petition No.215931/2018 titled "Zulfiqar Ahmad Khan Vs. Tahira begum alias Tahira Shafique" in the Lahore High Court, Lahore.
12. That during the proceedings of the civil revision petitions, the respondent filed an application under Order 41 Rule 27 of CPC for production of document as additional evidence which was allowed vide order dated 24-11-2022 and the evidence was recorded.
13. That both the civil revision petitions came up for hearing before the learned Single Judge of the Lahore High Court, Lahore. The learned Single vide consolidated judgment and decree dated 29-05-2025 allowed the civil revision petitions, and the judgment & decree dated 03-12-2014 passed by the trial Court to the extent of condition of deposit of Rs.90 lac along with inflation of money at the rate of 14% w.e.f 22-12-2007 as well as judgment & decree dated 27-02-2018 of the learned Appellate Court was set aside and the suit for declaration, confirmation of possession through specific performance, permanent & mandatory injunction etc. filed by the respondent was decreed and suit for rescission of contract filed by the appellant was dismissed.
14. That the impugned consolidated judgment and decree dated 29-06-2025 passed by learned Single Judge of the Lahore High Court, Lahore in civil revision petition No. 215931/2018

and order dated 24-11-2022, 09-02-2023 and subsequent order with respect to the application filed Order 41 Rule 27 of CPC are liable to be set aside on the following amongst other grounds:-

GROUNDS

- a) That the learned High Court fell into grave error by interfering in the well-reasoned judgment passed by the learned Appellate Court, in exercise of revisional jurisdiction under Section 115 CPC, in the absence of any established misreading, non-reading, or perversity of the evidence on record.
- b) That the learned Single Judge of the Lahore High Court, while sitting in chamber, was not vested with jurisdiction to adjudicate upon and allow the application filed under Order XLI Rule 27 CPC in the manner adopted; and if the Court was inclined to accept, the learned Single Judge should have to remand the matter to lower court for recording of evidence and delivering observations on the issues. By acceptance of the application filed under Order XLI Rule 27 CPC has deprived the appellant from one right of appeal.
- c) That the questioned documents sought to be introduced through the application filed under Order 41 Rule 27 of CPC pertain to issues of payment and possession, which was subject of the execution proceedings under Order XXI CPC but these questioned document cannot made grounds for filing the revision petition.
- d) That the Revisional Court committed material illegality by recording and relying upon post-event developments, including an alleged compromise, without deciding the

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core dispute on merits as already adjudicated by the Appellate Court, and such deviation from the original *laissez faire* was not permissible and contrary to settled principles of law.

- e) That after the delivery of possession under the agreement dated 06-08-2007, there was no exception for the respondent not to deposit the balance sale consideration and he had also not furnished any reason not to deposit the remaining sale consideration, and conduct on part of the respondent negates any claim for specific performance. The respondent, after taking possession of the suit property derived benefit of rental income from 33 shops situated in a prime commercial plaza located in the heart of the city, while he had paid only a nominal amount of Rs.10,00,000/- out of the total sale consideration of Rs.1,50,00,000/-, therefore was not entitled to claim the discretionary and equitable relief of specific performance and in this regard we seek guidance from judgment reported in **2017 SCMR 1696**.
- f) That the contradictory stance taken by the respondent, whereby on one hand he produced questioned documents under Order XLI Rule 27 CPC alleging out-of-court payment/ compromise, while on the other hand he made statement the said payment was made in court, and such like contradiction clearly shows the falsity and nullifies the question document, and reliance made by the learned Revisional Court on such self-contradictory assertion renders the impugned judgment legally unsustainable and void in the eye of law.
- g) That the learned High Court failed to appreciate that the clause regarding forfeiture of advance stood attracted due to default on the part of the respondent, and in such

circumstances, the grant of decree for specific performance was not sustainable under the settled legal framework. Once the breach of agreement and non-performance of contractual terms by the respondent stood established on record, the learned High Court's failure to award decree for rescission of contract to the appellant amounts to miscarriage of justice and contravenes the statutory mandate of reciprocal performance.

h) That despite admitted breach and failure to perform within the contractual timeline, the learned High Court erred in law by declining to grant rescission of contract in favour of the appellant, which constituted non-exercise of jurisdiction and miscarriage of justice.

i) That the agreement dated 06-08-2007 was admitted agreement and according to terms of the agreement the performance date was 22-12-2007 and nonpayment of remaining sale consideration by the respondent on that date, eventually caused result of rescission of contract and forfeiture of the advance money on account of breach of terms of the agreement. However, deliberated delay of 7-years in payment of balance sale consideration was sufficient ground for dismissal of suit for specific performance. Moreover, character, conduct and role of the respondent disentitled the respondent for grant of decree for specific performance as per Explanation-I of Section 22 of Specific Relief Act.

j) That the High Court failed to give due weight to the findings of the learned Trial Court, which expressly held that the plea of payment of Rs.90,00,000/- was not proved, and this default alone was sufficient to deny the respondent any equitable remedy.

k) That the learned trial court clearly held that the respondent failed to perform obligation. In view of the matter non invoking clause of rescission of contract and forfeiture of advance money is not proper exercise of the jurisdiction vested to him and non-dismissing suit for specific performance amounts to excess exercise of the jurisdiction.

In the above eventuality the appellant was entitled of decree for award of use and occupation as mense profit.

l) That the learned trial court committed a wrong/mistake in relief clause. As per law in case of non-performance of terms of the agreement to sell resulted into dismissal of suit for specific performance and reciprocally requiring to grant a decree as prayed for by the appellant, but disposing of suit for rescission of contract is not proper determination.

m) That in case of decreeing a suit for specific performance in consequence of that inflation of value of 14% was required to be awarded since 22-12-2007 against outstanding sale amount Rs:1,40,00,000/- requiring to be granted.

n) That the Hon'ble High Court has committed material irregularity and illegality in passing the impugned judgment which is against the law and facts.

PRAYER,

In the light of submission made above, it is therefore, respectfully prayed that

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appeal may graciously be accepted against the Impugned judgment dated 29.05.2025 passed by the Honorable Lahore High Court, Lahore in Civil Revision No.215931 of 2018 and the same may very kindly be set aside, consequently, the consolidated judgment and decree dated 27.02.2018 passed by learned Appellate Court be restored, and suit for rescission of contract be decreed in the favour of appellant against the Respondent in the interest of justice, or any other relief, which this Honorable Court deems fit and proper may also be granted.

DRAWN BY:

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Enrl. No.266

CERTIFICATE:

It is certified that as per instructions this is the first Civil Appeal on the subject matter before this Honorable Court against the Impugned judgment dated 29.05.2025 passed by the Honorable Lahore High Court, Lahore in Civil Revision No.215931 of 2018.

ADVOCATE ON RECORD

CERTIFICATE:

It is certified that all the clear/legible copies of the illegible documents have been compared word to word and found correct in all respects.

ADVOCATE ON RECORD

CERTIFICATE:

It is certified that the scanned/soft copy of the case through USB is complete as per original.

ADVOCATE ON RECORD

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IN THE LAHORE HIGH COURT, LAHORE

C.R. No. 215931 /2018

MEMO OF PARTIES

Zulfiqar Ahmad Khan son of Baaz Khan, Caste Rajput, resident of Chak No.208-RB, Tehsil & District Faisalabad.

---PETITIONER

VERSUS

1. Tahira Begum alias Tahira Shafique daughter of Noor Muhammad, Caste Arain, resident of Mian House, Mian Street, Ravi Mohallah, Tehsil Samundari, District Faisalabad, presently resident of Al-Syma, Clare Road, Ballyhooing County Mayo, Republic of Ireland.
2. Muhammad Irshad Ali Ch. son of Ch. Muhammad Siddique, Caste Arain, resident of Chak No.420/JB, Post Office Gojra, Tehsil Gojra District Toba Tek Sing, presently residing at 128/C, Ravi Mohallah, Tehsil Samundari, District Faisalabad, the General Attorney of Tahira Begum (respondent No.1)

---RESPONDENTS

PETITIONER

Through

Muhammad Amer Tauseef

Advocate Supreme Court

C.C. No.PLH-1146

35202-9817309-1

Mob# 0333-4238670

Karim Chambers, 2-Mozang Road,
Lahore.

ATTESTED
TO BE TRUE COPY

[Signature]
Advocate-on-Record

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

C.R.No.215931/2018

Zulfiqar Ahmad Khan VS. Tahira Begum etc.

Date of hearing	29.05.2025
Petitioner by	Mr. Tariq Kamal Qazi, Advocate
Respondent by	Ch. Abdul Majeed, Advocate

Ch. Muhammad Iqbal, J:- For the reasons recorded in my judgment of even date passed in Civil Revision No.215929/2018 titled as Zulfiqar Ahmad Khan Vs. Tahira Begum, this civil revision is also allowed. No order as to costs.

ad/
(Ch. Muhammad Iqbal)
Judge

Abdul Hafeez

Examiner J.C.B (Copy Branch)
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Lahore High Court, Lahore
Order 19
Rule 31 of
Civil Procedure Rules 1961

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Lahore High Court, Lahore

JUDGMENT SHEET

IN THE LAHORE HIGH COURT, LAHORE
JUDICIAL DEPARTMENT
JUDGMENT

C.R.No.215929/2018

Zulfiqar Ahmad Khan VS. Tahira Begum

Date of hearing	29.05.2025
Petitioner by	Mr. Tariq Kamal Qazi & M. Anwar Tauseef Sial, Advocates
Respondent by	Ch. Abdul Majeed, Advocate

Ch. Muhammad Iqbal, J:- Through this single judgment, I intend to decide the titled Civil Revision [No.215929/2018] and Civil Revision No.215931/2018 as both these petitions have arisen from same impugned judgments & decrees.

2. Through these Civil Revisions, the petitioner has challenged the validity of the judgment & decree dated 03.12.2014 passed by the learned Civil Judge, Faisalabad to the extent of condition of deposit of Rs.90 lac alongwith inflation of money at the rate of 14% w.e.f 22.12.2007 and also assailed the judgment & decree dated 27.02.2018 passed by the learned Additional District Judge, Faisalabad who dismissed the appeals of the parties.

3. Brief facts of these cases as contended by learned counsel for the petitioner are that Mst. Tahira Begum [hereinafter referred as "respondent/defendant"] filed a suit for recession of agreement to sell under Section 35 of the Specific Relief Act, 1877 executed through her general attorney Irshad Ali, against the petitioner/

plaintiff. The petitioner/plaintiff filed contesting written statement. The petitioner [hereinafter referred as "petitioner/plaintiff"] also filed a suit for declaration of rights and confirmation of possession through specific performance of agreement to sell, permanent & mandatory injunction. The respondent/plaintiff filed contesting written statement in the said suit. The trial Court consolidated both the suits, framed issues, recorded evidence and vide consolidated judgment & decree dated 03.12.2014 decreed the suit for specific performance of the petitioner subject to payment of Rs.90 lac to the respondent/plaintiff alongwith inflation of value of money @ 14% w.e.f 22.12.2007 within a period of one month otherwise the suit of the petitioner would deem to have been dismissed whereas the suit of respondent was dismissed.

The petitioner filed R.F.A. No.1815/2014 to the extent of imposition of condition by the trial Court which condition was suspended by the learned Division Bench of this Court vide order dated 23.12.2014. Later on, due to enhancement of pecuniary jurisdiction of District Judge, the appeal was remitted back. The respondent also filed R.F.A. No.246/2015 which was also remitted back. During the pendency of the appeals, a compromise was affected between the parties out of Court and the respondent promised for the withdrawal of her appeal but her counsel could not record statement in this regard. The appellate Court accepted the appeal of the respondent and dismissed the appeal of the petitioner vide judgment & decree dated 27.02.2018 and set aside the judgment & decree of the trial Court passed in a suit for specific performance filed by the petitioner. The petitioner filed review petition before the appellate Court on the ground that a compromise has been affected between the parties out of Court and the petitioner has paid Rs.1,50,00,000/- out of the Court to the attorney of the respondent. In the review petition, the statement of the petitioner was recorded on 20.03.2018 and

learned counsel for the petitioner withdrew the review petition on 31.03.2018 without the permission of the petitioner. Hence, this Civil Revision.

4. Arguments heard. Record perused.

5. During the pendency of the instant revision petition, the petitioner filed an application under Order XLI Rules 27 & 33 C.P.C to produce certain documents as additional evidence which was allowed on 24.11.2022. Thereafter, the case was transmitted to the learned Senior Civil Judge, Faisalabad vide order dated 09.02.2023 who recorded the statement of the petitioner which was cross-examined by the learned counsel for the respondent. Thereafter, the original record of case was returned back to this Court.

On 26.10.2023, learned counsel for the respondent stated that the respondent wants to produce evidence in rebuttal which was allowed and the case was sent to learned Senior Civil Judge, Faisalabad vide order 27.01.2024 who recorded the evidence of the respondent in rebuttal and thereafter, the case was sent back to this Court.

6. The petitioner Zulfiqar Ahmad Khan appeared as witness for producing the additional evidence and he produced attested copy of the review application under Section 114 CPC alongwith affidavit in respect of decision of the appellate court dated 27.02.2018 as Exh.P15, attested copy of statement of the petitioner dated 20.03.2018 and order dated 31.03.2018 of review application as Exh.P16, attested copy of application under Section 114 CPC in the appeal decided on 27.02.2018 titled as Tahira Begum Vs Zulfiqar Ahmad Khan as Exh.P17, attested copy of statement of Muhammad Irshad Chaudhary dated 20.03.2018 and order dated 31.03.2018 as Exh.P18, attested copy of application for withdrawal of original power of attorney No.2144/4 dated 06.11.2008 and order dated 12.04.2018 as

Exh.P19, attested copy of power of attorney of Nawaz Ahmad Randhawa, Advocate as Exh.P20 and attested copy of power of attorney of Zafar Ahmad Bhatti, Advocate as Exh.P21. On this statement which was recorded on oath cross examination was conducted by the respondent and in cross examination, the petitioner deposed that:-

میری درخواست نظر ثانی Exh.P15 کے ساتھ طاہرہ بیگم کی جانب ارشاد علی نے ایک درخواست Exh.P17 دائر کی۔ جو کہ مصدق لفظ ہے اس میں کوںل اقبال ٹھیکر دی پیش ہوئے اس کے ساتھ مختار نامہ ارشاد نے لف کیا ہے۔ اور ارشاد خود پیش ہوا اور اپنابیان ریکارڈ کروایا اور اس کی تصویر بھی بنائی گئی۔ اس وقت بتایا 90 لاکھ روپر و عدالت دیئے گئے۔ اس رقم کا ذکر عدالت کے آذون میں موجود ہے جو کہ مورخہ 20.03.2018 کا حکم درمیانی ہے۔ بعد میں دونوں فریقین اپنی اپنی تحریکی و اپس لے لی کیوں کہ ہم حالی کورٹ میں رجوع کرنا چاہتے تھے۔ رقم میں پچاس لاکھ ہے اقبال ٹھیکر دی ایڈوکیٹ اور نواز احمد رندھاوا ایڈوکیٹ کی طرف سے رقم واپسی کے لیے دائر ہوئی۔ یہ درخواست دونوں کوںل نے تیار کروائی تھی۔ یہ درخواست جناب یوسف ہنگر اصحاب سولنج کی عدالت میں پیش ہوئی جو کہ مورخہ 04.04.18 کو دائر ہوئی۔ اس درخواست میں جوابیات ہوئے ہیں وہ ریڈر عدالت نے تحریر کئے تھے جو کہ تاریخ 12.04.2018 تھی۔ راضی نامہ کے گواہان تینوں ایڈوکیٹس ظفر احمد بھٹی، اقبال ٹھیکر دی اور نواز احمد رندھاوا تھے جو کہ عدالت میں ہوا تھا۔

7. Admittedly, the suit for specific performance filed by the petitioner was decreed with the condition to deposit Rs.90 lac alongwith inflation of money at the rate of 14% w.e.f 22.12.2007. The petitioner filed review petition (Exh.P.15) before the appellate Court in which the petitioner contended that a compromise has been affected between the parties and all the remaining consideration was paid upon which Rs.50 lac which was deposited in the Court by the petitioner, was released to the respondent on the statement of the petitioner. For ready reference, statement (Exh.P.16) of the petitioner recorded before the appellate Court on 20.03.2018 is reproduced as under:

“Present: Zafar Ahmad Bhatti, Advocate, the learned counsel for the petitioner.

Muhammad Irshad Ali Chaudhry, son of Ch. Muhammad Siddique, resident of Chak No.420 J.B. Gojra, presently resident of 137 road house No.128 Mohalla Ravi, Samundri. Attorney on behalf of Tahira Begum.

33105-8339977-1

Original record of the appeal titled "Tahira Begum Vs. Zulfiqar Ahmad Khan" and "Zulfiqar Ahmad Khan Vs. Mst. Tahira Begum" as well as the suit be requisitioned for today.

Announced.
20.03.2018

Judge Zulfiqar Ahmad Naeem,
Addl. District Judge,
Faisalabad.

Presence as before.

Zulfiqar Ahmad Khan son of Baz Khan, caste Rajpute Bhatti, resident of Chak No.208 R.B. Faisalabad wants to record his statement. Let his statement be recorded.

Statement of Zulfiqar Ahmad Khan son of Baz Khan, caste Rajpute Bhatti, resident of Chak No.208 R.B. Faisalabad identified by Zafar Ahmad Bhatti, Advocate.

On oath.

It is stated that compromise has been affected between the parties. I have paid Rs.1,50,00,000/- out of the court to the attorney of Tahira Begum while she is entitled to get Rs.50,00,000/- already deposited by me with the court during the trial of the suit.

R.O & A.C. Judge Zulfiqar Ahmad Naeem,
20.03.2018 Addl. District Judge,
Faisalabad.”

In the application (Ex.P-17) under Section 114 C.P.C filed by the respondent / Tahir Begum in which she admitted that a compromise has been affected between the parties and Rs.90 lac was received whereas Rs.50 lac deposited in compliance of order passed by this Court may also be released to her. The relevant paragraph Nos.3 & 4 of the aforesaid application are reproduced as under:

³³، کہ اب فریقین کا راضی نامہ ہو گیا ہے اور سائل نے بحق ذوالقدر احمد خان بیان دے دیا ہے

جس اداعہ کا ایسا واقعہ ہے لئے کلئے بھی اسکا اور سوچنا ہے۔

4۔ کاب سائل جمع شد و تم مبلغ عمار لاکھ لئے کا حقدار سے۔"

Exh.P18 is an application under Section 114 PC filed with the respondent in which Irshad Ali Chaudhary son of Ch. Muhammad Siddique got recorded his statement that a compromise has been affected between the parties out of the court. For ready reference, statement of Irshad Ali Chaudhary recorded before the appellate Court on 20.03.2018 is reproduced as under:

"Present: Iqbal Mundairvi Advocate, the learned counsel for the petitioner.

Zafar Ahmad Bhatti, Advocate, the learned counsel for the respondent.

Muhammad Irshad Ali Chaudhry, son of Ch. Muhammad Siddique, resident of Chak No.420 J.B. Gojra, presently resident of 137 road house No.128 Mohalla Ravi, Samundri. Attorney on behalf of Tahira Begum.

33105-8339977-1

Original record of the appeal titled "Tahira Begum Vs. Zulfiqar Ahmad Khan" and "Zulfiqar Ahmad Khan Vs. Mst. Tahira Begum" as well as the suit be requisitioned for today.

Announced.
20.03.2018

Judge Zulfiqar Ahmad Naeem,
Addl. District Judge,
Faisalabad.

Presence as before.

Muhammad Irshad Ali Chaudhry, son of Ch. Muhammad Siddique, wants to record his statement. Let his statement be recorded.

Statement of Irshad Ali Chaudhry son of Ch. Muhammad Siddique, resident of Chak No.420 J.B. Gojra, presently resident of 137 road house No.128 Mohallah Ravi, Sammundri. Attorney on behalf of Tahira Begum. 33105-8339977-1

On oath.

It is stated that compromise has been affected between the parties out of the court. As per the compromise the respondent has paid Rs.1,50,00,000/- to me while I have to get Rs.50,00,000/- already deposited by the respondent with court during the trial of the suit. I have no objection in case my suit titled "Tahira Begum Vs. Zulfiqar Ahmad Khan" suit for recession of contract under section 35 of the Specific Relief Act, may be dismissed and the suit instituted by Zulfiqar Ahmad Khan titled "Zulfiqar Ahmad Khan Vs. Tahira Begum etc" suit for declaration of rights, confirmation of possession

through specific performance of agreement to sell, permanent and mandatory injunction may be decreed.

R.O & A.C. Judge Zulfiqar Ahmad Naeem,
20.03.2018 Addl. District Judge,
Faisalabad."

On the said statement the photograph of Irshad Ali Chaudhry was scanned. He affixed his thumb impression and put the signatures which was identified by his counsel. Exh.P19 is an application filed by the respondent for the withdrawal of her original power of attorney.

Alongwith this application general attorney of the respondent namely, Muhammad Irshad Ali submitted his affidavit. Respondent filed an application for the release of Rs.50 lac which was deposited by the petitioner in the Court. In the said application, the petitioner as well as Muhammad Irshad Ali, special attorney of the respondent recorded their statements for withdrawal of the amount deposited by the petitioner, which are reproduced as under:

بیان از اس ذوالقدر احمد خان قوم راجہوت سکنے پکنہر 208 رب تھصیل و ضلع فصل آبار (اصل
شناختی کارڈ بعد ازاں لاختہ والیں کیا گیا)

برطف: بیان کیا کہ میں نے ایک دعویٰ استقرار حق بخواں ذوالقدر احمد بنام طاہرہ دائر کیا تھا۔ جس
میں میرا مدعا علیہ فریق سے راضی نامہ ہو گیا ہے۔ جو کہ جگہ مدد عوی کی رجسٹری میرے نام
کروائے کیلئے راضی ہو گیا ہے۔ اب مدعا علیہ عدالت میں حق شدہ رقم /50 لاکھ روپے والیں لینے پر
مجھے کوئی اعتراض نہ ہے اور مدعا علیہ کی درخواست منظور کی جائے۔

سکرورست تسلیم کیا۔

بیان از اس محمد ارشاد علی پچھری ولد پچھری محمد صدیق قوم آرائیں سکنے پکنہر 420 جب تھصیل
گوجہ ضلع ٹونہ ٹیک سکھ۔ (اصل شناختی کارڈ بعد ازاں لاختہ والیں کیا گیا)

"بیان کیا کہ میں دعویٰ بخواں ذوالقدر احمد بنام طاہرہ بیگم کی طرف سے مختار عام ہوں۔ ہمارا اس
دعویٰ میں راضی نامہ ہو گیا ہے۔ اور میں نے تمام رقم جگہ مدد عویہ کی بابت وصول کر لی ہے۔ اور
میں بطور مختار عام جگہ مدد عویہ کی رجسٹری ذوالقدر احمد بنام کے نام کروادوں گا۔ اور کل رقم میں
سے صرف 50 لاکھ روپے جو کہ عدالت میں حق ہیں یہی رقم بھایا ہے اور کوئی رقم بھایا نہ ہے۔ لہذا
رقم مجھے کی اجازت دی جائے۔ جب یہ رقم مجھے مل جائے تو میں جگہ مدد عویہ کی رجسٹری
ذوالقدر کے نام کروادوں گا۔"

On the margin of the statement, both parties put their signatures and imposed thumb impressions and signature of the respondent was identified by her counsel. The said application was allowed by the learned Civil Judge, Faisalabad vide order dated 21.04.2018 and the said amount was released to the respondent. For ready reference, order dated 21.04.2018 is reproduced as under:

"21.04.2018

Present: Nawaz Ahmad Randhawa, learned counsel for the petitioner.

Respondent Zulfiqar Ahmad Khan in person.

Reports of Civil Nazir of Civil Courts, Faisalabad and Treasury Office (District Account Office, Faisalabad) have been received, be made part of this file.

Through, this petition the petitioner Tahira Begum through her general attorney Muhammad Irshad Ali s/o Muhammad Siddique has requested for return of amount of Rs.50,00,000/-, deposited in suit titled as "Zulfiqar Ahmad Khan versus Tahira Begum etc." (suit for confirmation of possession through specific performance).

Record reveals that in view of order dated 19.05.2010 passed in suit referred supra, Zulfiqar Ahmad Khan plaintiff of the said suit (here respondent) had deposited the remaining consideration amount in favour of Tahira Begum defendant (here petitioner); The report received from the District Account Officer reveals that the said amount is still lying in the Treasury, Zulfiqar Ahmad Khan plaintiff of the suit (here respondent) has got recorded his statement to the effect of compromise, he has no objection if the referred amount Rs.50,00,000/- is withdrawn by the petitioner.

Muhammad Arshad Ali is general special attorney of Tahira Begum, defendant of the suit, on the last date of hearing he appeared in person along with general power of attorney and I.D. Card, the original documents, which were returned to the petitioner, copies are of the same are already available on the file.

In view of the general power of attorney (in favour of Muhammad Irshad Ali by Tahira Begum), Muhammad Irshad Ali is entitled to withdraw the said amount on behalf of the Tahira Begum (defendant of the suit) as general attorney Hence, application is accepted. A robkar for issuance of cross cheque be issued to the concerned department in favour of the petitioner (Muhammad Irshad Ali s/o Muhamma Siddique) as per rules and regulations. Petition is disposed of accordingly.

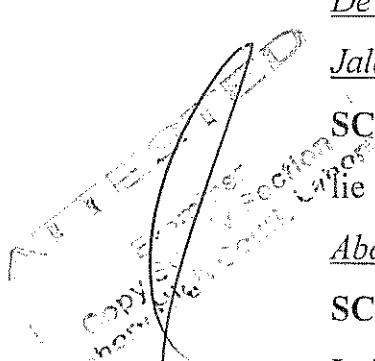
LETTER PETITION NO. 100

Let the record of the instant petition be consigned to the consigned to the record room after its due completion."

The application (Ex.P.18 & 19) filed by the general attorney of the respondent for return of the original general power of attorney to him which application was allowed. On the margin of this order, the general attorney marked his signatures and thumb impression after receiving the general power of attorney. All the documentary evidence produced by the petitioner in his statement and lengthy cross examination was conducted upon him but his stance could not be shattered.

8. In rebuttal, Muhammad Irshad Ali, general attorney of the respondent, categorically denied the statement recorded by him, his photograph as well as the signatures recorded whereas the judicial record shows that a compromise was affected between the parties and the respondent received the consideration. It is settled law that presumption of sanctity is attached to the judicial proceedings/judicial record until controverted through extraordinary, cogent and trustworthy evidence. Reliance is placed on cases cited as Muhammad Ramzan Vs. Lahore Development Authority, Lahore (2002 SCMR 1336) and Waqar Jalal Ansari Vs. National Bank of Pakistan & Another (2008 SCMR 1611). Furthermore, it is settled law that a man can tell a lie but a document cannot. Reliance is placed on the cases of Abdul Ghani & Others. Vs. Mst. Yasmeen Khan & Others (2011 SCMR 837) and Saleem Akhtar Vs. Nisar Ahmad (PLD 2000 Lahore 385).

9. In this case, the documentary evidence/judicial record proves that a compromise was affected between the parties and in result of that compromise the petitioner paid the total consideration duly received by the respondent as such the respondent is debarred to wriggle out from the same. Reliance in this regard is placed on the cases titled as Khalid Rashid Vs. Kamran Lashari, Chairman, C.D.A, Islamabad and others (2010)



SCMR 594) and Sajid Mehmood Vs. Mst. Shazia Azad & Others (2023 SCMR 153).

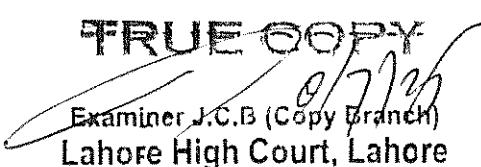
10. The respondent could not produce any concrete, solid and trustworthy documents in rebuttal of the documentary evidence/judicial record produced by the petitioner and it is settled law that a document can be rebutted by a document having better legal sanctity only. In this regard, reliance is placed on the cases titled as Abdul Ghani & Others. Vs. Mst. Yasmeen Khan & Others (2011 SCMR 837) and Saleem Akhtar Vs. Nisar Ahmad (PLD 2000 Lahore 385).

11. As the decisions of the lower fora suffer from blatant misreading and non-reading of the evidence as well as mis-application of law, as such the same are not sustainable in the eyes of law and are liable to be set-aside and this Court is well within jurisdiction under section 115 CPC to interfere with illegal and perverse concurrent findings of the lower fora. Reliance is placed on the cases titled as Nazim-ud-Din & Others Vs. Sheikh Zia-Ul-Qamar & Others (2016 SCMR 24).

12. In view of above, this Civil Revision is allowed, the judgment & decree dated 03.12.2014 passed by the trial Court to the extent of condition of deposit of Rs.90 lac alongwith inflation of money at the rate of 14% w.e.f 22.12.2007 as well as judgment & decree dated 27.02.2018 of the appellate Court are hereby set aside and the suit for declaration, confirmation of possession through specific performance, permanent & mandatory injunction etc. filed by the petitioner is hereby decreed as prayed for. No order as to costs.


(Ch. Muhammad Iqbal)
Judge

Abdul Hafeez


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This decree sheet consists of three (03) pages.

IN THE LAHORE HIGH COURT, LAHORE.

Civil Revision No.215929 of 2018 and
Civil Revision No.215931 of 2018.

Parties names in Civil Revision No.215929 of 2018.

Zulfiqar Ahmad Khan son of Baaz Khan, Caste Rajput, resident of Chak No.208-RB, Tehsil & District Faisalabad.

(PETITIONER/PLAINTIFF IN C.S. NO.186-1 AND DEFENDANT IN C.S. NO. 187-1).

Against

Tahira Begum alias Tahira Shafique daughter of Noor Muhammad, resident of Mian House, Mian Street, Ravi Mohallah, Tehsil Samundri, District Faisalabad through General Attorney Muhammad Irshad Ali Ch. son of Ch. Muhammad Siddique.

(RESPONDENT/DEFENDANTS IN C.S. NO.186-1 AND PLAINTIFF IN C.S. NO.187-1).

Parties names in Civil Revision No.215931 of 2018.

Zulfiqar Ahmad Khan son of Baaz Khan, Caste Rajput, resident of Chak No.208-RB, Tehsil & District Faisalabad.

(PETITIONER/PLAINTIFF IN C.S. NO.186-1 AND DEFENDANT IN C.S. NO. 187-1).

Against

1). Tahira Begum alias Tahira Shafique daughter of Noor Muhammad, Caste Arain, resident of Mian House, Mian Street, Ravi Mohallah, Tehsil Samundri, District Faisalabad, presently resident of Al-Syma, Clare Road, Ballyhooing, County Mayo, Republic of Ireland, (2). Muhammad Irshad Ali Ch. son of Ch. Muhammad Siddique, Caste Arain, resident of Chak No.420/JB, Post Office Gojra, Tchsil Gojra, District Toba Tek Sing, presently residing at 128/C, Ravi Mohallah, Tchsil Samundri, District Faisalabad, the General Attorney of Tahira Begum (respondent No.1).

(RESPONDENTS/DEFENDANTS IN C.S. NO.186-1 AND PLAINTIFF IN C.S. NO.187-1).

*Examiner
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Lahore High Court Lahore*

28

Revision Petitions against the decrees of the Court of Mr. Zulfiqar Ahmad

Naeem, Additional District Judge, Faisalabad, dated 27th day of February 2018,
reversing the decrees of Mr. Shainshah Raza Kamal, Civil Judge, 1st Class,
Faisalabad, dated 03rd day of December 2014, by dismissing the appeal titled
"Zulfiqar Ahmad Khan versus Tahira Begum" and accepting the appeal titled
"Tahira Begum Vs. Zulfiqar Ahmad Khan", consequently, dismissing the suit
titled "Zulfiqar Ahmad Khan Vs. Tahira Begum etc" the suit for confirmation of
possession through specific performance, permanent and mandatory
injunction and decreeing the suit titled "Tahira Begum Vs. Zulfiqar Ahmad" the
suit for recession of contract under section 35 of the Specific Relief Act in
respect of the sale agreement dated 6.8.2007, directing the appellant/plaintiff
Zulfiqar Ahmad Khan to pay Rs.5000/- per month per shop from the date of
agreement till handing over the possession of the suit property to the
respondent No.1 with mark-up at bank rate, further directing the appellant to
forthwith hand over the vacant possession of the suit property to the
respondent No.1, leaving the parties to bear their own costs.

**CLAIM IN C.S. NO.186-1: SUIT FOR DECLARATION, CONFIRMATION OF
POSSESSION THROUGH SPECIFIC PERFORMANCE, PERMANENT &
MANDATORY INJUNCTION ETC. IN RESPECT OF AGREEMENT TO SELL
BEARING DOCUMENT NO.1089 DATED 6.8.2007 IN RESPECT OF PROPERTY
MEASURING 8-M, 222 SQ.FT. COMPRISING ON SHOPS NO.1 TO 116
ALONGWITH BASEMENT INCLUDING SHOPS PRIVATE NO.1 TO 17 SITUATED
ON GROUND FLOOR BEARING IHATA NO.3699, KHEWAT NO.255, KHATAUNI
NO.259, WARD NO.2, ACCORDING TO FARD JAMABANDI FOR THE YEAR
1993-94, SITUATED IN AZAN (AZLAN) PLAZA CHAK NO.212/R.B, TENSIL
CITY, DISTT. FAISALABAD ALONGWITH UTILITIES, PASSAGE, WAY
INTERNAL & EXTERNAL WITH ALL RIGHTS ETC. FREE FROM ALL
ENCUMBRANCE ETC. EXECUTED, SIGNED & THUMB MARKED BY THE
DEFENDANT NO.2 IN FAVOUR OF THE PLAINTIFF IN PRESENCE OF THE
MARGINAL WITNESSES AGAINST A CONSIDERATION OF RS.1,50,00,000/-.**

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Lahore High Court, Lahore

CLAIM IN C.S. NO.187-1:

استئناف نامہ Specific Relief Act 35، ریکسیشن اف کونٹرکٹ،

-06-08-07 مورخ

MEMORANDUM OF REVISION PETITIONS

29

Zulfiqar Ahmad Khan

PLAINTIFF IN C.S. NO.186-1.

Tahira Begum alias Tahira Shafique
through General Attorney.

PLAINTIFF IN C.S. NO.187-1.

Tahira Begum alias Tahira Shafique
and another.

DEFENDANTS IN C.S. NO.186-1.

Zulfiqar Ahmad Khan

DEFENDANT IN C.S. NO.187-1.

The plaintiff in C.S. No.186-1 and Defendant in C.S. No.187-1, above-named, files two separate revision petitions to the Lahore High Court, Lahore, against the decrees of the Additional District Judge, Faisalabad, in the above suits, dated the 27th day of February 2018.

DECREE

These revision petitions coming on for hearing on the 29th day of May 2025, before MR. JUSTICE CH. MUHAMMAD IQBAL, Judge of the Lahore High Court, Lahore, in the presence of Mr. Tariq Kamal Oazi & M. Anwar Tauseef Sial, Advocates for the petitioner and Ch. Abdul Majeed, Advocate for the respondent (in Civil Revision No.215929/2018), Mr. Tariq Kamal Oazi, Advocate for the petitioner and Ch. Abdul Majeed, Advocate for the respondents (in Civil Revision No.215931/2018),

Civil Revision No.215929/2018:

it is ordered that this Civil Revision is allowed, the judgment & decree dated 03.12.2014 passed by the trial Court to the extent of condition of deposit of Rs.90 lac alongwith inflation of money at the rate of 14% w.e.f 22.12.2007 as well as judgment & decree dated 27.02.2018 of the appellate Court are hereby set aside and the suit for declaration, confirmation of possession through specific performance, permanent & mandatory injunction etc. filed by the petitioner is hereby decreed as prayed for. No order as to costs.

Civil Revision No.215931/2018:

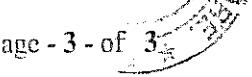
it is ordered that for the reasons recorded in my judgment of even date passed in Civil Revision No.215929/2018 titled as Zulfiqar Ahmad Khan Vs. Tahira Begum, this civil revision is also allowed. No order as to costs.

GIVEN under my hand and the seal of the Lahore High Court, Lahore, on the 29th day of May 2025.

Civil Revision No.215929 of 2018.			Civil Revision No.215931 of 2018.		
Cost of Revision Rs. & Ps.	Petitioner Rs. & Ps.	Respondent Rs. & Ps.	Cost of Revision Rs. & Ps.	Petitioner Rs. & Ps.	Respondents Rs. & Ps.
Law stamps	15000.00	-	Law stamps	-	-
Process fees	-	-	Process fees	-	-
Counsel's fees	-	-	Counsel's fees	-	-
Miscellaneous	665.00	16.00	Miscellaneous	294.00	4.00
Total	15665.00	16.00	Total	294.00	4.00

Counsel's fees is not allowed to the parties as no fee Certificate has been furnished as required by Rule 16, Chapter 1 of High Court Rules and Orders Volume V.

Assistant Registrar (Civil-II)



Page - 3 - of 3

Deputy Registrar (Civil)

Deputy Registrar (Civil)
Lahore High Court, Lahore

Mohammed Amer Tauseef ASC

✓ 8/Mr 30

Opening Sheet for Civil Revisions.
IN THE LAHORE HIGH COURT LAHORE
JUDICIAL DEPARTMENT

Civil Revision No. 21593/

2011

ORIGINAL SUIT				FIRST APPEAL				Date for filing petition in the High Court	Value for purposes of jurisdiction.	Value for purposes of Court fees	Amount of Court-fee on petition.
Instituted	Decided	Instituted	Decided	Court	Date	Court	Date				
Court	Date	Court	Date	Court	Date	Court	Date				
Senior Civil Judge, Faislabad.	01.12.2009.	Shainshah Kessa Kamal, Civil Judge, 1st Class, Faislabad.	03.12.2014.	District Judge, Faislabad.	16.07.2015.	Addl: District Judge, Faislabad.	27.02.2018.				

TRUE COPY

Examiner J.C.B (Copy Branch)
Lahore High Court, Lahore

Presented by Muhammad Amer Iauseef, A.S.C.

(Name of party or Advocate filing the Petition)

Petitioner (Plaintiff or defendant) Zulfiqar Ahmed Khan.. Petitioner

Respondent (Plaintiff or defendant) Tahira Begum & Ishire Sharifiz &c. Respondents.

Order of First Court and date Dismissed the suit as disposed of on 27.12.2007.

Appellate Court and date Accepted the appeal on 27.2.2018.

Confirming, reversing or modifying reversing

Original claim Suit for Rescission of Contract U/S.35 of Specific Relief Act.

Claim in Revision To set aside the judgment & Decree of Addl: J.Judge 27.2.2018 &
to set aside the decree of 27.12.2007 to the extent of Rs. 90,00,000/-
Petition under Section 115 C.P.C. of Act V with interest at 14%
of 1800. since 22-12-

Muhammed Amer Iauseef,
Advocate Supreme Court,
CNIC: 35202-9817309-1

31

IN THE LAHORE HIGH COURT, LAHORE

C.R. No. 215931 /2018

MEMO OF PARTIES

Zulfiqar Ahmad Khan son of Baaz Khan, Caste Rajput, resident of Chak No.208-RB, Tehsil & District Faisalabad.

---PETITIONER /
PLH-1146-186-1
VERSUS

1. Tahira Begum alias Tahira Shafique daughter of Noor Muhammad, Caste Arain, resident of Mian House, Mian Street, Ravi Mohallah, Tehsil Samundari, District Faisalabad, presently resident of Al-Syma, Clare Road, Ballyhooing County Mayo, Republic of Ireland.
2. Muhammad Irshad Ali Ch. son of Ch. Muhammad Siddique, Caste Arain, resident of Chak No.420/JB, Post Office Gojra, Tehsil Gojra District Toba Tek Sing, presently residing at 128/C, Ravi Mohallah, Tehsil Samundari, District Faisalabad, the General Attorney of Tahira Begum (respondent No.1)

---RESPONDENTS
PLH-1146-186-1
PETITIONER

Through

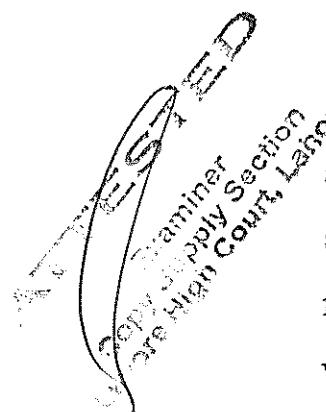

MUHAMMAD AMER TAUSEEF
Advocate Supreme Court
C.C. No.PLH-1146
35202-9817309-1
Mob# 0333-4238670
Karim Chambers, 2-Mozang Road,
Lahore.

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CIVIL REVISION PETITION UNDER SECTION 115
CPC AGAINST THE JUDGMENTS AND DECREES
DATED 27.02.2018 PASSED BY LEARNED
ADDITIONAL DISTRICT JUDGE, FAISALABAD
AND JUDGMENT AND DECREE DATED
03.12.2014 PASSED BY LEARNED CIVIL JUDGE
1ST CLASS, FAISALABAD.

Respectfully Sheweth;

1. That the addresses of the parties as given above are correct and sufficient for the purpose of service to the parties.
2. That the facts in nutshell to invoke the interference of this Hon'ble Court through this revision petition are that the petitioner filed a suit for declaration of rights and confirmation of possession through specific performance of agreement to sell dated 06.08.2007, permanent & mandatory injunction against the respondents on 01.12.2009 wherein the respondents appeared and submitted their written statement by controverting the assertions made in the plaint. Copies of plaint and written statement are attached as **Annexure-A & B.**
3. That respondent No.1 also filed a suit under section 35 of Specific Relief Act for recession of agreement to sell dated 06.08.2007 through her general power of attorney Irshad Ali against the petitioner on 23.10.2009 wherein petitioner appeared and



filed his written statement. Copies of plaint and written statement are attached as Annexure-C & D.

4. That both the suits were consolidated by the learned Trial Court vide order dated 26.03.2014 and out of divergent pleadings of the parties, following consolidated issues were framed by learned Trial Court:-

ISSUES:

1. Whether defendant No.2 being lawful general power of attorney of defendant No.1 entered into an agreement to sell with respect to subject matter property details of which are mentioned in the head note of the plaint through agreement to sell No.1098 dated 06.08.2007 against the consideration of Rs.1,50,00,000/- and received Rs.10,00,000/- as earnest money in presence of witnesses? OPP
2. Whether defendant No.2 further received Rs.90,00,000/- in presence of witnesses from plaintiff and only Rs.50,00,000/- are outstanding towards the plaintiff? OPP
3. If the above said issues are proved in affirmative whether the plaintiff being owner in possession is entitled to get a decree for declaration of rights, confirmation of possession through specific performance, permanent &

mandatory injunction with respect to suit property as prayed for? OPP

4. Whether the plaintiff only paid Rs.10,00,000/- as consideration amount and failed to pay the remaining amount and contract became void? OPD
5. Whether defendant Tahira Begum is entitled to get a decree for recession of contract U/S 35 of Specific Relief Act as prayed for? OPD
6. Whether suit of defendant is barred by law being result of misconception? OPP
7. Whether suit of defendant is counter blast of the suit of the plaintiff? OPP
8. Whether defendant has not come to the court with clean hands? OPP
9. Relief.
5. That both the parties led their respective oral as well as documentary evidence to prove their version and after hearing the arguments of the parties, the learned Trial Court decreed the suit of the petitioner subject to payment of Rs.90,00,000/- to respondents along with inflation of value of money @ 14% since 22.12.2007 within a period of one month, otherwise, the suit of petitioner deemed to have been dismissed and suit filed by the respondents for

recession of contract was disposed of vide judgment and decree dated 03.12.2014. Copies of evidence and impugned judgment and decree are attached as Annexure-E & F.

6. That the petitioner filed an appeal on 22.12.2014 bearing R.F.A. No.1815/2014 before this Hon'ble Court against the impugned judgment and decree 03.12.2014 which came up for hearing on 23.12.2014 before this Hon'ble Court and this Hon'ble Court was pleased to suspend the operation of the impugned judgment and decree dated 03.12.2014 to the extent of condition of deposit of Rs.90,00,000/- along with inflation of money at the rate of 14% with effect from 22.12.2007. Thereafter, due to increase of pecuniary jurisdiction, the appeal of transmitted before the learned Additional District Judge, Faisalabad. The respondents also filed an appeal bearing R.F.A. No.246/2015 against the impugned judgment and decree dated 03.12.2014 which was also transmitted before the learned Additional District Judge, Faisalabad due to increase of pecuniary jurisdiction. Copies of appeals are attached as Annexure-G & H.
7. That during the pendency of appeals, a compromise was arrived at between the

parties and respondents wanted to withdraw their appeal but counsel of respondents could not record his statement despite directions by the respondents and learned first Appellate Court vide impugned judgment and decree dated 27.02.2018 rescinded the sale contract and earnest money worth Rs.10,00,000/- was directed to be forfeited in favour of respondents. Appeal filed by the petitioner was dismissed whereas appeal filed by the respondents was accepted and consequently, suit filed by the petitioner for confirmation of possession through specific performance, permanent and mandatory injunction was dismissed and suit filed by the respondents for recession of contract under section 35 of the Specific Relief Act was decreed and petitioner was directed to pay Rs.5000/- per month per shop from the date of agreement till handing over the possession of the suit property to the respondent No.1 with mark-up at bank rate and petitioner was further directed to forthwith hand over the vacant possession of the suit property to the respondent No.1. Copy of impugned judgment and decree is attached as Annexure-J.

8. That the petitioner filed a review petition before learned first Appellate Court against the impugned judgment and decree dated

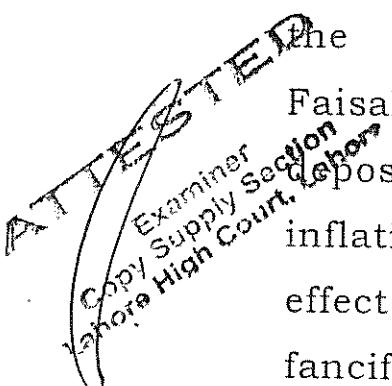
27.02.2018 on the ground that compromise had already been affected between the parties and petitioner had paid Rs.1,50,00,000/- out of the Court to the Attorney of respondent No.1 Tahira Begum but statement of counsel of the respondents could not be recorded in which statements were record and thereafter the review petition was dismissed as withdrawn vide order dated 31.03.2018. Copies of review petition and statements with order are attached as Annexure-K & M.

9. That it is pertinent to mention here that the respondent No.1 filed an application for withdrawal of deposited amount of Rs.50,00,000/- before learned Civil Judge 1st Class, Faisalabad in which respondent No.1 recorded his statement that compromise has been affected between the parties and he has received whole consideration amount from the petitioner regarding suit property and he is ready to execute registered sale deed of suit property in the name of petitioner on which learned Civil Judge 1st Class, Faisalabad accepted the application of the respondent No.1 vide order dated 21.04.2018. Copies of application, statements and order are attached as Annexure-N, P & Q.

10. That the petitioner seeks indulgence of this Hon'ble Court for setting aside the impugned judgment and decree dated 27.02.2018 passed by learned Additional District Judge, Faisalabad and impugned judgment and decree dated 03.12.2014 passed by the learned Trial Court to the extent of condition of depositing of Rs.90,00,000/- along with inflation of money at the rate of 14% with effect from 22.12.2007, inter-alia, on the following:-

GROUNDS

- a) That judgment and decree dated 27.02.2018 passed by learned Additional District Judge, Faisalabad and judgment and decree dated 03.12.2014 passed by the learned Civil Judge 1st Class, Faisalabad to the extent of condition of depositing of Rs.90,00,000/- along with inflation of money at the rate of 14% with effect from 22.12.2007 are void, ab-initio, fanciful, against the law, facts, circumstances and record of the case.
- b) That both the judgments & decrees of learned Courts below are at variance to the extent of dismissal of suit of the petitioner and decretal of suit of the respondents.



c) That a compromise has been affected between the parties out of the Court and in this regard, the petitioner has paid an amount of Rs.1,50,00,000/- to the Attorney of respondent No.1/Tahira Begum but counsel of the respondents could not recorded his statement despite directions by the respondents before the learned first Appellate Court due to which the impugned judgment and decree dated 27.02.2018 was passed and now the respondent No.1 has recorded his statement before the learned Civil Judge 1st Class, Faisalabad that he has received whole consideration amount from the petitioner and is ready to execute registered sale deed in the name of petitioner.

d) That the learned first Appellate Court has ~~not~~ brought into consideration the grounds taken and facts stated in the appeal while passing the impugned judgment and decree which resulted in grave miscarriage of justice.

e) That the learned Trial Court rightly dismissed the suit filed by the respondents for recession of contract and decreed the suit of the petitioner but the learned first Appellate Court wrongly dismissed the suit of the petitioner and

decreed the suit of the respondents without going through the facts, circumstances and record of the case, hence impugned judgment and decree dated 27.02.2018 is liable to be set aside.

- f) That the learned first Appellate Court wrongly observed in the impugned judgment and decree that the petitioner could not fulfill his part of agreement because the respondents concealed the factum of earlier selling the property to one Mian Muhammad Shabbir while entering into agreement to sell dated 06.08.2007 with the petitioner and showed that suit property is free from all encumbrances whereas respondents had already sold out the suit property to Mian Muhammad Shabbir son of Muhammad Munshi vide sale agreement dated 07.01.2005 against consideration of Rs.1,10,00,000/- and had received Rs.40,00,000/- as earnest money from him and he had also instituted a suit titled as "Mian Muhammad Shabbir Vs. Tahira Begum" for possession through specific performance of agreement dated 07.01.2005 but thereafter, dismissal of suit of said Mian Muhammad Shabbir for non-production of evidence to substantiate his claim under Order XVII rule 3 CPC and non-filing of appeal

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against the said dismissal judgment and decree cannot be attributed to the petitioner as petitioner had no fault for dismissal of his suit and non-filing of appeal, hence observations made by the learned first Appellate Court in impugned judgment and decree dated 27.02.2018 regarding non-fulfillment of terms and conditions of agreement by the petitioner are quite erroneous and based on surmises and conjectures.

- g) That both the learned Courts below have failed to appreciate this fact while passing the impugned judgments and decrees that the petitioner has successfully proved the payment of Rs.90,00,000/- to Muhammad Irshad Chaudhry, the General Attorney of Mst. Tahira Begum on 16.12.2017 at Mian House situated in Samundari and he has substantiated his claim by deposing as PW-1 and said fact has also been corroborated by Muhammad Shafique PW-2 but both the learned Courts below have completely failed to appreciate the confidence inspiring evidence adduced by the petitioner, hence impugned judgments and decrees are not sustainable in the eyes of law and liable to be set aside.
- h) That it is pertinent to mention here that the learned first Appellate Court did not decide

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the matter issuewise which is clear violation of Order XLI rule 31 of CPC, hence impugned judgment & decree of the learned first Appellate Court is not warranted under the law and liable to be set aside.

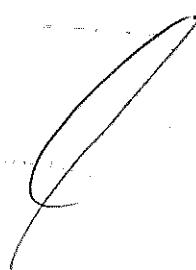
- i) That the petitioner has successfully proved his case but the learned first Appellate Court erred in law while deciding the matter, so, the findings of the learned first Appellate Court are not sustainable in the eye of law and are liable to be set aside.
- j) That the petitioner adduced best available evidence in order to prove his claim but both the learned Courts below completely brushed aside the same and decided the matter illegally, unlawfully and without giving any cogent reasons ignoring the important facts.
- k) That both the learned Courts below have not applied their judicial mind while passing the impugned judgments and decrees.
- l) That impugned judgments and decrees of both the learned Courts below are result of mis-reading and non-reading of evidence available on record.
- m) That both the learned Courts below have failed to exercise the jurisdiction vested in them by law and have committed

material irregularity and illegality while passing the impugned judgments & decrees.

- n) That both the learned Courts below committed serious illegality and irregularity while deciding the matter by ignoring the law laid down by the Apex Courts of the country.
- o) That under the circumstances of the case and the law on the point, the petitioner is entitled for the grant of relief prayed for.

PRAYER

It is, therefore, most respectfully prayed that the instant revision petition may graciously be accepted and impugned judgment and decree dated 27.02.2018 passed by learned Additional District Judge, Faisalabad may very kindly be set aside and impugned judgment and decree dated 03.12.2014 passed by learned Civil Judge 1st Class, Faisalabad may very kindly be set aside to the extent of condition of depositing of Rs.90,00,000/- along with inflation of money at the rate of 14% with effect from 22.12.2007 and suit of the petitioner for declaration of rights, confirmation of possession through specific performance, permanent and mandatory injunction may kindly be decreed and suit filed by the respondents for recession of contract may very kindly be dismissed in the best interest of justice and equity.



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It is further prayed that the operation of the impugned judgments and decrees may kindly be suspended till the final decision of this petition, to meet the ends of justice.

Any other appropriate relief which this Hon'ble court deems fit and proper may also be awarded to the petitioner.

Petitioner

Through:

MUHAMMAD AMER TAUSEEF

Advocate Supreme Court

C.C. No.PLH-1146

35202-9817309-1

Mob# 0333-4238670

Karim Chambers, 2-Mozang Road,
Lahore.

DATED: 27.04.2018

CERTIFICATE:

As per instructions this is the first petition on the subject matter before this Honourable Court.

[Signature]
ADVOCATE

Copy Petition No.: 107032

Submission Date: 26/04/2018

No of Pages: 16

Fees Paid: 100/-

Urgency: Normal

Total (Excl. F.S.) 100/-

Date of Completion: 27/04/2018

Date of Delivery: 27/04/2018

Examiner Committee Section
[Signature]
Authorised by Adv. M Article 87 of
Qanup-e-Shanadat Order 1947

[Signature]
10/04/18

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TAHIRA BEGUM VERSUS ZULFIQAR AHMAD KHAN.

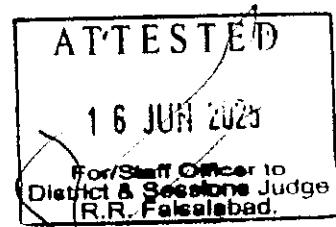
27.2.2018.

Present. Learned counsel for the parties.
Arguments have been heard.

Vide my detailed consolidated Judgment of even date,
separately recorded in English in appeal titled "Zulfiqar Ahmad Khan
Vs. Tahira Begum" (58-13), instant appeal has been accepted.
Decree sheet be prepared. The parties are left to bear their own
costs. Record of learned trial court be sent back immediately. File
be consigned to record room.

Announced.
27.2.2018

(JUDGE ZULFIQAR AHMAD NAEEM)
Addl. District Judge,
Faisalabad.



IN THE COURT OF JUDGE ZULFIQAR AHMAD NAEEM
ADDL.DISTRICT JUDGE.
FAISALABAD.

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ZULFIQAR AHMAD KHAN VS. TAHIRA BEGUM etc

CIVIL APPEAL NO.58-13/2017
DATE OF INSTITUTION. 13.3.2017

MST. TAHIRA BEGUM VS ZULFIQAR AHMAD KHAN

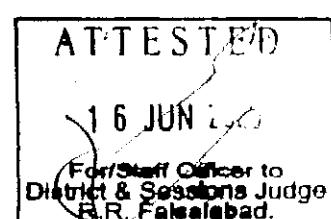
CIVIL APPEAL NO. 135-13/2016.
DATE OF INSTITUTION. 16.7.2016

DATE OF JUDGMENT. 27.2.2018.

CONSOLIDATED JUDGMENT

Both the civil appeals have been preferred against the consolidated judgment and decrees dated 3.12.2014 passed by the Judge Shainshah Raza Kamal, the then learned Civil Judge Ist Class, Faisalabad, by virtue of which the learned trial court decreed the suit titled "Zulfiqar Ahmad Vs. Tahira Begum and other" suit for declaration of rights, confirmation of possession through specific performance of agreement to sell , permanent and mandatory injunction subject to payment of Rs.90,00,000/- to defendants alongwith inflation of value of money @ 14% since 22.12.2007 within a period of one month, otherwise the suit of the plaintiff deemed to have been dismissed and the suit titled "Tahira Begum Vs. Zulfiqar Ahmad Khan," suit for recession of contract under section 35 of Specific Relief Act has been disposed of. Now Zulfiqar Ahmad Khan , the appellant/plaintiff shall be referred as the appellant , while Mst. Tahira Begum etc , the respondents/defendants shall be referred as respondents. Both the appellant as well as respondents have challenged the same

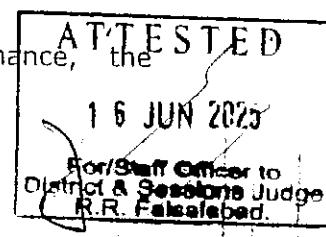
*Attested
by Zulfiqar Ahmad Naeem
Addl. Session Judge
Faisalabad*



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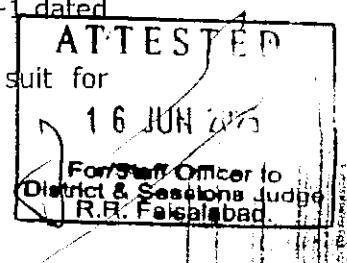
judgment and decree through their separate appeals, therefore both the appeals are being decided through this single judgment.

2. Brief facts necessary for the disposal of both the appeals are that Zulfiqar Ahmad , the appellant has instituted the suit titled "Zulfiqar Ahmad Khan Vs. Tahira Begum and Muhammad Irshad " to get the decree for Declaration of rights, confirmation of possession through specific performance of sale agreement bearing document No.1089 dated 6.8.2007 in respect of the property measuring 8 marlas 222 square feet, comprised in shops No. 1 to 16 alongwith basement including shops private No.1 to 17 situated on ground floor bearing Ihat No.3699 khewat No.255, khatooni No.259, ward No.2 according to Fard Jamabandi for the year 1993-94 situated in Azan (Azlan) Plaza Chak No.212 R.B. Tehsil City District Faisalabad alongwith utilities passages ways internal and external with all rights etc free from all encumbrances etc executed, signed & thumb marked by defendant No.2 in favour of the plaintiff in presence of the marginal witnesses against consideration of Rs.1,50,00,000/- . That defendant No.1 being owner of the suit property appointed the defendant No.2 as her general attorney vide general power of attorney dated 13.6.2007 . That the defendant No.2 being the lawful general attorney of the defendant No.1 sold out the suit property to the plaintiff vide sale agreement dated 6.8.2007 against consideration of Rs.1,50,00,000/- and received Rs.10,00,000/- vide receipt of even date duly executed, signed and thumb marked by the defendant No.2 in presence of the marginal witnesses . That according to the terms and conditions of the agreement to sell the target date was fixed as 22.12.2007 for the completion, execution and registration of sale deed in favour of the plaintiff or to whom he will desire after the payment of balanced amount worth Rs.1,40,00,000/-. As part performance, the



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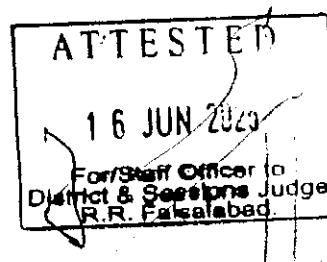
defendant handed over the possession of the suit property to the plaintiff on 6.8.2007. Thereafter, the defendant No.2 just to meet his need received Rs.90,00,000/- in presence of witnesses Muhammad Shafique son of Muhammad Siddique , caste Arain, resident of Chak No.204 R.B. Tehsil City District Faisalabad and Allah Yar son of Bagh Ali, caste Rajpute chowhan, resident of chak No.208 R.B. Tehsil City District Faisalabad as a part payment from balanced amount Rs.1,40,00,000/- with the realization that defendant No.2 will complete , execute and get registered the sale deed in favour of the plaintiff or to whom the plaintiff will desire on the date so fixed for 22.12.2007 after receiving the balanced amount of Rs.50,00,000/-. Due to having confidence on each other, the defendant No.2 did not issue receipt with regard to the said amount worth Rs.90,00,000/- even on the request of the plaintiff. Thus the plaintiff paid Rs.1,00,00,000/- to the defendant and only Rs.50,00,000/- remained as balanced amount out of the total consideration i.e. Rs.1,50,00,000/- but later on the plaintiff repeatedly asked the defendants to get the remaining sale consideration Rs.50,00,000/- and to transfer the suit property to the plaintiff but the defendants failed to do so , rather postponed the matter on one pretext or the other. Being dissatisfied from the conduct of the defendants, the plaintiff served a legal notice bearing Ref. No.Zulfiqar/44 dated 7.10.2009 through TCS courier service consignment No.6607047 through his counsel to defendant No.2 , which was duly received but not responded by the defendants. That defendants inspite to perform their part maliciously in league with Muhammad Afzal Asghar son of Ch. Muhammad Asghar resident of Chak No.32 J.B. (the marginal witness of mutual sale agreement as well as receipt dated 6.8.2007) instituted a civil suit No.822-1 dated 23.10.2009 titled "Tahira Begum Vs. Zulfiqar Ahmad" suit for



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recession of contract under section 35 of the Specific Relief Act in respect of sale agreement dated 6.8.2007. That after the refusal of the defendants to execute the registered sale deed in favour of the plaintiff as per their undertaking vide sale agreement dated 6.8.2008, the plaintiff probed the matter that why the defendants have wriggled out themselves from the agreement to sell dated 6.8.2007 and refused to perform their part, then it came to the knowledge of the plaintiff that defendants had already sold out the suit property vide agreement dated 7.1.2005 to one Mian Muhammad Shabbir son of Muhammad Munshi, caste Arain, resident of Chak No.467 G.B. Tehsil Jaranwala District Faisalabad against consideration of Rs.1,10,00,000/- and received Rs.40,00,000/- as earnest money and target date 7.1.2007 was fixed for the completion, execution and registration of the sale deed in favour of Mian Muhammad Shabbir, the alleged purchaser/vendee and in this regard the defendants contumaciously and maliciously concealed this very fact from the plaintiff and also not mentioned this very fact in sale agreement dated 6.8.2007 duly executed inter se the parties i.e. plaintiff and defendants. That the said vendee had also instituted suit No.161-1 dated 7.5.2007 titled "Mian Muhammad Shabbir Vs. Muhammad Tahira Begum" suit for possession through specific performance of agreement to sell dated 7.1.2005, which is against the same suit property and is duly contested by the defendant, which is admittedly pending adjudication in the civil court Faisalabad. That after coming to know the above said facts, the plaintiff again approached the defendant No.2 and agitated in this regard with the request to perform their part after receiving the balanced amount Rs.50,00,000/- but the defendants refused to do so. Hence this suit.

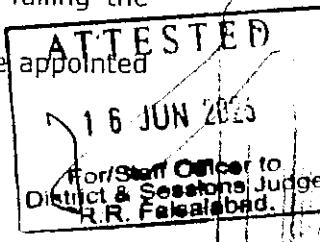
Abdul Aziz Ahmad Naeem
Advocate & Notary Public



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3. The plaintiff has prayed for a decree for confirmation of possession to the effect that plaintiff being lawful owner, bona fide purchaser with consideration (Rs.10,00,000/- + Rs.90,00,000/- total Rs.1,00,00,000) without notice is in the possession of the suit property in lieu of mutual sale agreement and receipt dated 6.8.2007, a decree to the effect that the plaintiff is entitled for the specific performance of mutual agreement to sell bearing document No.1089 dated 6.8.2007 in respect of the suit property measuring 8 marlas 222 square feet, comprising on shops No.1 to 16 alongwith basement including shops private no.1 to 17 situated on ground floor except roofs bearing Ihat No.3699, khewat No.255, khatooni No.259 ward No.2 according to the Fard Jamabandi for the year 1993-94 situated in Azan (Azlan) Plaza chak No.212 R.B. Tehsil City District Faisalabad subject to payment of balanced amount Rs.50,00,000/- to the defendants for which the plaintiff was ever ready and desirous to perform his part of performance. That a decree to the effect that alleged sale agreement bearing document No.758 dated 7.1.2005 executed inter se Muhaminad Shafique son of Sher Muhammad (the General Attorney of Mst. Tahira Begum daughter of Noor Muhammad Wife of Muhammad Shafique) and Mian Muhammad Shabbir son of Muhammad Munshi is ineffective, inoperative against the proprietary rights of the plaintiff being bona fide purchaser with consideration in good faith, without notice of the alleged sale agreement in respect of the suit property. That a decree in form of mandatory injunction by issuing mandate to the defendants for the completion, execution and registration of a conveyance of sale in the office of the sub-registrar Faisalabad in favour of the plaintiff in respect of the suit property after receiving the balanced amount Rs.50,00,000/- from the plaintiff failing the

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Reader or any official of this learned court may kindly be appointed

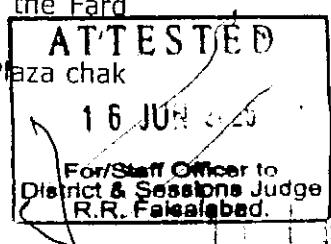


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to do the needful. That a decree in form of permanent injunction restraining the defendants permanently to interfere in the lawful possession of the plaintiff , to alienate , to transfer , to sell or to mortgage the suit property in whatsoever manners. it is to any one else except the plaintiff. Hence this suit.

4. This suit has been contested by the defendants through their written statement of defence by maintaining that they had agreed for the sale of the suit property to the plaintiff vide the sale agreement dated 6.8.2007 and had received Rs.10,00,000/- as earnest money vide receipt dated 6.8.2007. That the plaintiff was bound to pay the remaining sale consideration Rs.1,40,00,000/- till the target date i.e. 22.12.2007 but he has failed to do so, rather he has maneuvered to show that he had paid Rs.90,00,000/- from the remaining sale consideration to the defendant No.2, which is just a story based upon false hood. Factually, the plaintiff has paid nothing except Rs.10,00,000/- . That due to the non payment of remaining sale consideration by the plaintiff till the target date, the contract between the parties is required to rescinded as envisaged under section 35 of the Specific Relief Act and the earnest money already paid by the plaintiff has been forfeited. The defendant No.1 has also instituted a separate suit titled "Mst. Tahira Begum alias Tahira Shafique through her attorney Irshad Ali Chaudhry versus Zulifqar Ahmad Khan the suit for recession of contract under section 35 of the Specific Relief Act in respect of sale agreement dated 6.8.2007 by maintaining that the plaintiff being owner in possession of the property measuring 8 marlas 222 square feet. comprising on shops No.1 to 16 alongwith basement including shops private no.1 to 17 situated on ground floor except roofs bearing Ihata No.3699, khewat No.255, khatooni No.259 ward No.2 according to the Fard

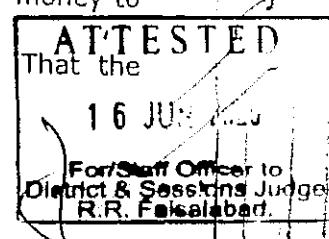
Jhs
Rajab Ali Namir Hashmi
District & Session Judge
Faisalabad



Sd

No.212 R.B. Tehsil City District Faisalabad had agreed for the sale of the suit property to the defendant through her attorney Irshad Ali Chaudhry vide sale agreement dated 6.8.2007 and had received Rs.60,00,000/- as earnest money and handed over the possession of the suit property to the defendant on the said date. That the parties had fixed 22.12.2007 as target date and the time was essence of the contract and the defendant was bound to pay the remaining sale consideration worth Rs.40,00,000/- till 22.12.2007 and in case he will fail to pay the remaining sale consideration then his earnest money will be forfeited and the sale contract dated 6.8.2007 will be rescinded . Since the defendant has failed to pay the remaining sale consideration till the target date and even the plaintiff has issued notice through his counsel in a very strange manner while mentioning a fake and baseless story pertaining to the payment of Rs.90,00,000/- to the attorney of the plaintiff by mentioning fictitious witnesses. That the non payment of the remaining sale consideration on behalf of the defendants clearly manifests his malafide and he is bound to pay Rs.5,000/- per shop as mense profit from the date of agreement dated 6.8.2007 till he hand over the suit property to the plaintiff. That even after having received notice dated 7.10.2009 from the defendant , the plaintiff approached the defendant and asked him to pay the remaining sale consideration and to get transfer the suit property in his name but he has refused to do so. Hence this suit. The plaintiff has prayed for the decree for the recession of contract dated 6.8.2007 as envisaged under section 35 of the Specific Relief act for the recovery of mense profit @ Rs.5,000/- per shop from 6.8.2007 till the realization of possession for the payment of remaining sale consideration worth Rs.1,40,00,000/- inflation of value of money to

the rate of 14 percent from 22.12.2007 to onward.



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possession of the suit property be immediately handed over to the plaintiff.

5. The suit has also been contested by the defendant vide written statement of defence with the same stance as mentioned supra in his suit and claimed for dismissal of the suit with cost.

6. Keeping in view the divergent pleadings of the parties, the learned trial court had consolidated both the suits and framed consolidated issues vide order dated 9.4.2014. Then both the parties were put to trial and after completion of trial, the learned trial court proceeded to decree the suit instituted by the plaintiff titled "Zulfiqar Ahmad Vs. Tahira Begum and other" suit for declaration of rights, confirmation of possession through specific performance of agreement to sell, permanent and mandatory injunction subject to payment of Rs.90,00,000/- to defendants alongwith inflation of value of money @ 14% since 22.12.2007 within a period of one month, otherwise the suit of the plaintiff deemed to have been dismissed and the suit titled "Tahira Begum Vs. Zulfiqar Ahmad Khan," suit for recession of contract under section 35 of Specific Relief Act has been disposed of. Being aggrieved from the said consolidated judgment and decree, both the parties have preferred separate appeals.

7. The appellant/plaintiff Zulfiqar Ahmad Khan vide his memo of appeal and through his learned counsel has maintained that the impugned judgment and decree of the learned trial court upto the extent of condition of deposit of Rs.90,00,000/- alongwith inflation amount 14% with effect from 22.12.2007 is against the facts and circumstances of the case. That factually, the said part of the judgment and decree passed by the learned trial court is result of misreading rather non reading of the record. That factually, the

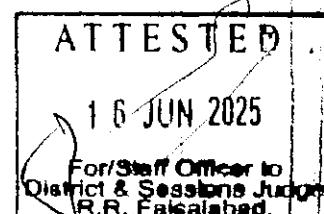
other
Muhammad Irshad Haider
Session Judge
Faisalabad

appellant had paid Rs.90,00,000/- to Muhammad Irshad Chaudhry,

ATTESTED
16 JUN 2020
For/Staff Officer to
District & Sessions Judge
R.R. Faisalabad

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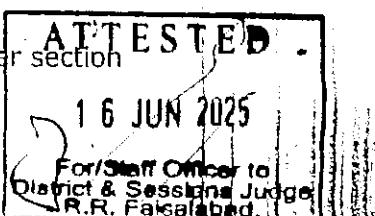
the general attorney of Mst. Tahira Begum, on 16.12.2007 at Mian House situated in Samundri and he has substantiated his said claim by deposing as PW-1 and said fact has also been corroborated by Muhammad Shafique PW-2 but the learned trial court has failed to appreciate the confidence inspiring evidence adduced by the plaintiff. The learned counsel for the appellant has further argued that infact, the respondent had already sold out the suit property to Mian Muhammad Shabbir son of Muhammad Munshi vide sale agreement dated 7.1.2005 against consideration of Rs.1,10,00,000/- and had received Rs.40,00,000/- as earnest money from him and he had also instituted the suit titled "Mian Muhammad Shabbir Vs. Tahira Begum" the suit for possession through specific performance of agreement dated 7.1.2005 , thus the respondents had concealed the said material facts from the appellant when they agreed for the sale of the suit property to him vide sale agreement dated 6.8.2007 and factually, the respondents, had committed default and due to their being at fault, they were unable to perform their part, hence the learned trial court was required to decree the suit instituted by the appellant as prayed for without any condition. The learned counsel for the appellant has also argued that the respondents had instituted baseless suit titled "Tahira Begum Vs. Zulfiqar Ahmad" the suit for recession of contract under section 35 of the Specific Relief Act in respect of sale agreement dated 6.8.2007 and the same has rightly been dismissed by the learned trial court vide impugned judgment and decree. The learned counsel for the appellant has also maintained that appeal having been preferred by the respondents against the impugned judgment and decree dated 3.12.2014 has been preferred without any rhyme or reason and the same is liable to be dismissed with cost.



SS

8. Conversely, the respondents through their memorandum of appeal and through their learned counsel have maintained that the impugned judgment and decree passed by the learned trial court has been passed without keeping in view the actual facts and circumstances of the case. That the learned trial court has not applied its judicial mind, while passing the impugned judgment and decree . that the impugned judgment and decree passed by the learned trial court is result of misreading rather non-reading of the record. The learned counsel has emphatically argued that as per the findings of the learned trial court on issue No.2 the learned trial court has concluded that the appellant had failed to pay the remaining sale consideration i.e. Rs.40,00,000/- on the target date. The learned trial court has further found that the appellant has also prepared a fake scheme to show that he had paid Rs.90,00,000/- to Muhammad Irshad Ali Chaudhry . that the appellant was more at fault than the respondents, then it is very strange that when the learned trial court had itself concluded that the defendant had not paid the major amount i.e. Rs.90,00,000/- then how the learned trial court has proceeded to decree the suit for specific performance having been instituted by the appellant, while the specific performance is discretionary relief but the discretion must be exercised judiciously. The learned counsel for the respondents has further argued that infact, the appellant had totally failed to perform his part i.e. to pay the remaining sale consideration Rs.40,00,000/- till target date i.e. 22.12.2007 , hence his earnest money worth Rs.10,00,000/- stood forfeited and the sale contract dated 6.8.2007 has been rescinded . Thus the learned trial court was legally required to dismiss the suit for specific performance instituted by the appellant and to decree the suit

One ~~One~~ executed by the respondents for recession of contract under section
of District & Session Judge
Faisalabad



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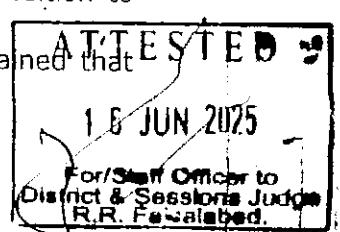
35 of the Specific Relief act in respect of sale agreement dated 6.8.2007 but the learned trial court has done vice versa , therefore, impugned judgment and decree passed by the learned trial court has been passed while totally ignoring the facts of the case and the law applicable on the subject. Finally , the learned counsel for the respondents has prayed for the acceptance of the appeal having been preferred by the respondents and to decree their suit titled "Tahira Begum Vs. Zulfiqar Ahmad" the suit for recession of contract under section 35 of the Specific Relief Act in respect of sale agreement dated 6.8.2007 and to dismiss the suit titled "Zulfiqar Ahmad Khan Vs. Tahira Begum etc." instituted by the appellant . The learned counsel for the respondents has also prayed for the dismissal of appeal having been preferred by the appellant.

9. **Arguments have been heard . Record perused.**

10. From the perusal of the pleadings of the parties and evidence available on the file , in these appeals, sale agreement dated 6.8.2007 and payment of the earnest money worth Rs.10,00,000/- by the appellant to the respondents vide receipt dated 6.8.2007 has been admitted. The only question for the determination for the learned trial court was who from the parties was not willing and ready to perform the part of contract on his behalf on the target date i.e. 22.12.2007. Now the appellant has claimed that he had been ready and willing to perform his part of the contract but the respondents had concealed material facts from the appellant regarding the previous sale contract with Mian Muhammad Shabbir and the institution of the suit titled "Mian Muhammad shabbier Vs. Tahira Begum" the suit for confirmation of possession through specific contract of sale in respect of the suit property. That due to the said suit they were not in a position to

D.C.P.
Asstt. D.C.P.
Division Judge
etc.

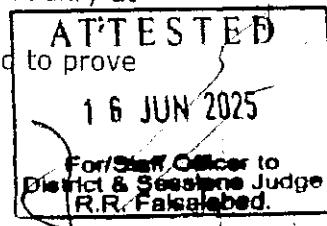
perform their part of the contract. He has further maintained that



he had paid Rs.90,00,000/- to Muhammad Irshad, the general attorney of the respondent No.1 in presence of witnesses Muhammad Shafique son of Muhammad Siddique Caste Arain resident of Chak No.204 R.B. Faisalabad and Allah Yar son of Bagh Ali, Caste Rajpute Chowhan resident of Chak No.208 R.B. District Faisalabad as part performance and has deposited the remaining sale consideration worth Rs.50,00,000/- on the direction of the learned trial court.

11. In order to substantiate his said claim, the plaintiff himself has deposed before the learned trial court as PW-1 and has maintained that he had paid Rs.90,00,000/- to Muhammad Irshad on 16.12.2007 at Mian House situated in Samundri and Muhammad Shafique and Allah Yar accompanied him. He has further maintained that he had managed the said amount from his friends but it is very strange to note that none from his friends has been examined as witness to support his claim that he had borrowed the said huge amount from his friends. Secondly, the plaintiff has produced Muhammad Shafique son of Muhammad Siddique as PW-2, who during his examination in chief stated that the plaintiff paid Rs.90,00,000/- to Muhammad Irshad Ali Chaudhry, on Sunday in his presence and in presence of Allah Yar. But during his cross examination he categorically maintained that Allah Yar was known to him, who was present before the court. He further stated that he and Zulfiqar went to pay the amount while Allah Yar had not accompanied them. That he had no knowledge about the person to whom they went there. In the light of above said facts, when this witness has refuted the claim of the plaintiff that Allah Yar had accompanied the plaintiff on 16.12.2007 at the time of alleged payment of Rs.90,00,000/- by the plaintiff to Irshad Ali Chaudhry at

Zulfiqar his house situated at Samdunri. The plaintiff has also failed to prove
Judge Zulfiqar Ahmad Naeem
Judge of Civil & Session Judge



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the factum that he had borrowed such huge amount from his friends because he has not bothered to examine any such friend to substantiate his claim. In the light of above said facts, the learned trial court had rightly concluded that the appellant/plaintiff had failed to substantiate his claim that he had paid Rs.90,00,000/- on 16.12.2007 to Irshad Ali Chaudhry, the general attorney of the respondent No.1. Thus the learned trial court had rightly concluded that the appellant had not paid Rs.90,00,000/- to Irshad Ali Chaudhry from the remaining sale consideration on 16.12.2007 rather he had tried to defraud the respondents through his maneuvering that he had paid said huge amount to the general attorney/Irshad Ali Chaudhry.

12. As far as the contention of the appellant that the respondents have failed to perform their part due to the fact that they had already sold the suit property vide sale agreement dated 7.1.2005 to one Mian Muhammad Shabbir son of Muhammad Munshi against consideration of Rs.1,10,00,000/- and had received Rs.40,00,000/- as earnest money and the said previous purchaser had also instituted the suit for possession through specific performance of sale agreement dated 7.1.2005 and said fact had been concealed by the respondents from the plaintiff and due to pendency of the said suit, they had failed to perform part of the contract. This court considers that it is very strange to note that the said alleged vendee had instituted the suit titled "Mian Muhammad shabbier Vs. Mst. Tahira Begum " and as per claim of the said vendee/purchaser vide his said suit he had paid Rs.40,00,000/- to the respondent but the perusal of the record reveals that said suit has been dismissed by the Judge Mumtaz Ahmad, the then learned Civil Judge Ist Class, Faisalabad vide judgment and decree dated

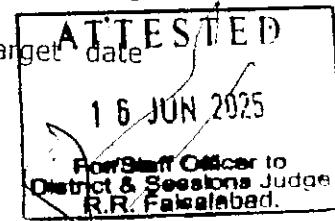
Naeem 19.12.2012 due to non production of evidence as envisaged under
M. Naeem *on behalf*

ATTESTED .
15 JUN 2025
For/Staff Officer to
District & Sessions Judge
R.R. Faisalabad.

order 17 rule 3 CPC. Had the said vendee/ plaintiff purchased the suit property from the respondent after having paid the alleged huge amount worth Rs.40,00,000/- vide sale agreement dated 7.5.2007 then why he did not produce the evidence to substantiate his claim and even after the dismissal of his suit under order 17 rule 3 CPC due to non production of evidence he did not bother to prefer an appeal to challenge the said judgment and decree before the appellate forum. The said facts Speak volumes about the said whole proceedings, i.e. the alleged sale agreement dated 7.5.2007 then the institution of the suit titled "Mian Muhammad Shabbir Vs. Tahir Begum "by the said alleged vendee then its dismissal and non-preferring of even appeal shows that some one had maneuvered all said proceedings in order to damage the respondents and to prove their fault. When it was established that the appellant Zulfiqar , had not paid the huge amount i.e. Rs.90,00,000/- from the total Rs.1,50,00,000/- , then it is quite un-understandable that how the learned trial court has proceeded to decree the suit instituted by the plaintiff titled "Zulfiqar Ahmad Khan Vs. Tahira Begum etc" the suit for confirmation of possession through specific performance , permanent and mandatory injunction etc because the plaintiff in this suit was not at all with clean hands , hence not entitled to get the decree for the specific performance of the sale contract. Thus the findings of the learned trial court that the appellant Zulfiqar Ahmad Khan was entitled to get the specific performance of sale contract dated 20.12.2007 being not result of judicious exercise of discretion is not warranted by law and the same is hereby set-aside and the suit instituted by the plaintiff is hereby dismissed.

13. As far as the claim of the respondents that the appellant had failed to perform his part i.e. to pay the remaining

Zulfiqar Ahmad Naem
R.R. Faisalabad
District & Session Judge
Faisalabad



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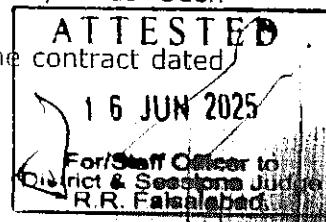
22.12.2007 and due to his failure to perform his part his earnest money i.e. Rs.10,00,000/- stood forfeited and due to his failure to pay the remaining sale consideration the sale contract is liable to be rescinded. It is evident from the record that the respondents had delivered the possession of the precious commercial property to the plaintiff after having received just Rs.10,00,000/- from the total said consideration Rs.1,50,00,000/- . This single fact shows their sincerity , bonafide willingness and readiness to perform their part of the contract. This court considers that the appellant had failed to pay the remaining sale consideration worth Rs.1,40,00,000/- till target date, thus he was not ready and willing to perform his part of the contract, hence, due to his failure to perform his part of the contract his earnest money worth Rs.10,00,000/- has been forfeited and the sale contract dated 6.8.2007 is liable to be rescinded as envisaged under section 35 of the Specific Relief Act and the same is accordingly rescinded.

14. Admittedly, from 6.8.2007 the plaintiff being in use and occupation of the suit property is enjoying the benefits of the suit property. The suit property is situated in the heart of the Faisalabad City . The plaintiff is directed to pay Rs.5000/- per month per shop from the date of agreement till handing over the possession of the suit property to the respondent No.1 with mark-up at bank rate. He is further directed to hand over the vacant possession of the suit property forthwith to the respondent No.1.

15. Nutshell of the above discussion is that the plaintiff Zulfiqar Ahmad Khan had totally failed to pay the remaining sale consideration till the target date and thus due to his failure said sale contract is liable to be rescinded and the same has been rescinded. His earnest money worth Rs.10,00,000/- has been

forfeited due to his failure to perform his part of the contract dated

Zulfiqar Ahmad Khan
A. Session Judge
Faisalabad



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6.8.2007. Thus the appeal titled "Zulfiqar Ahmad Khan versus Tahira Begum" (58-13) is dismissed and the appeal titled "Tahira Begum Vs. Zulfiqar Ahmad Khan" is accepted , consequently, the suit titled "Zulfiqar Ahmad Khan Vs. Tahira Begum etc" the suit for confirmation of possession through specific performance, permanent and mandatory injunction is dismissed and the suit titled "Tahira Begum Vs. Zulfiqar Ahmad" the suit for recession of contract under section 35 of the Specific Relief act in respect of the sale agreement dated 6.8.2007 is decreed. The appellant/plaintiff Zulfiqar Ahmad Khan is directed to pay Rs.5000/- per month per shop from the date of agreement till handing over the possession of the suit property to the respondent No.1 with mark-up at bank rate. The appellant is further directed to forthwith hand over the vacant possession of the suit property to the respondent No.1. Decree sheets be prepared. The parties are left to bear their own costs. Record of learned trial court be sent back immediately. A copy of this judgment be annexed with the connected file. Files of appeal be consigned to record room after its completion.

Announced:
27.2.2018

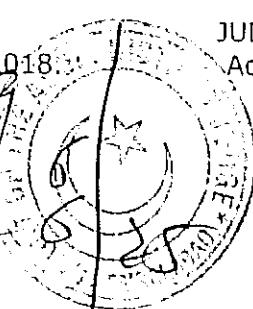
JUDGE ZULFIQAR AHMAD-NAEEM
Addl. District Judge,
Faisalabad.

Certified that this consolidated judgment consists of sixteen pages and each page has been dictated, read, corrected and signed by me.

Dated: 27.2.2018

JUDGE ZULFIQAR AHMAD NAEEM,
Addl. District Judge,
Faisalabad.

No. of Application _____
Date of Application _____
Address for Delivery _____
No. of Copies _____
Court Fee _____
Urgent Court Fee _____
Name of Copyist _____
Date of Preparation _____
Date of Delivery _____



ATTESTED TO BE TRUE COPY
For / Staff Officer
District & Sessions Judge
Faisalabad Authorised [Signature]
Danton-e-Sababat Ordinance 1934

16 JUN 2025

English Civil Form No.124.

Decree in Appeal.

(Order XLI, rule 35 of the Code of Civil Procedure).

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IN THE COURT OF JUDGE ZULFIQAR AHMAD NAEEM,
ADDL: DISTRICT JUDGE,
FAISALABAD.

Zulfiqar Ahmad Khan Son of BAI-Khan, caste Rajput
resident of Chak no. 222/PC Tehsil city District
Faisalabad.

Appellant/appellants.

Versus:

(1) Tahira Begum alias Tahira Shafiqe daughter of Nasir Muhammad,
Caste Asain, resident of Ham House Main Street Ravi
Mohallah tehsil Samundri District Faisalabad, presently resident
of Al-Syra, Clara road Ballyknock County Mayo, Republic
of Ireland. (2) Mohammad Ishtiaq Ali C.A. Son of late
Muhammad Sadiqur Caste Asain, resident of Chak no 424/PC
Post office Bopra, Takiul Coras District T. S. Singh presently
residing at 128/6 Ravi Mohallah tehsil Samundri Distl. Fsl. The General
Attorney of Tahira Begum Respondent/Respondents.
(Respondent no. 1)

Date of presentation plaint in first Court: 01-12-2009
Date of decision of trial Court: 03-12-2014

Appeal No. 58-13 of 2017 from the Judgment and Decree of
the Court of Judge Civil Judge/Judge Family Court
Faisalabad, 22nd day of December 2014.

Claims:-

(Suit for declaration confirmation of possession Through
specific performance, permanent & mandatory injunction etc. in
lieu of decree to sell bearing document no-1089
dated 18-8-2017 in respect of property measuring 8.01, 222sq.ft.
comprising on chak no-1 to 16 along with immovable including
shops private no 1 to 17 situated on ground floor bearing
Chata no - 5699 Khewat no 255, Khatawali no. 259 Ward no. 3
according to Farsid Zamabandhi for the year 1993-94, situated
in Azam (Azam) plaza Chak no- 222/PC Tehsil City Distt. Faisalabad
along with utilities, passage, way internal, external with all right
etc. free from all encumbrance etc. executed. Signed + Thumb
marked by the defendant no. 2 in favour of the plaintiff in
presence of magistrate witness ATTE S. FAISALABAD
of Rs-15000/-

Jud.
Judge Zulfiqar Ahmad Naeem
Addl: District & Session Judge
P.T.O.

16 JUN 2025
FIRMAN OWE TO
FIRMAN OWE TO
District & Session Judge
F.R. Faisalabad.

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English Civil Form No. 124.

Decree in Appeal.
(Order XLI, rule 35 of the Code of Civil Procedure).

IN THE COURT OF JUDGE ZULFIQAR AHMAD NAEEM,
ADDL: DISTRICT JUDGE,
FAISALABAD.

Appellant/appellants.

Versus:

Respondent/Respondents.

Date of presentation plaint in first Court: 22-10-2009
Date of decision of trial Court: 03-12-2014

Appeal No. 59-13 /of 2017 from the Judgment and Decree of
the Court of Civil Judge/Judge Family Court
Faisalabad, 03rd day of December 2014 .

Claims:-

35 days Reversim of Contract (in 65 days)
(06-12-07 till 03-12-14) Specific Relief Act

Judge Zulfiqar Ahmad Naeem
Addl: District & Session Judge
Faisalabad

D-T-O

ATTESTED

16 JUN 2025

For Session Officer to District & Sessions Faisalabad

MEMORANDUM OF APPEAL.

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M. S. P. C. Appellant/Appellants.

S. I. P. S. J. M. S. Respondent/Respondents.

Appellants /Appellant above named appeal to the Additional District Judge, Faisalabad for the decree of the court of Civil Judge/ Family Judge, Faisalabad dated: 05-12-2014

The appeal coming on for hearing on 27/3 day of February 2018 before me (**JUDGE ZULFIQAR AHMAD NAEEM**) Additional District Judge, Faisalabad, in presence of Advocate counsel for the appellant and Advocate counsel for the respondent.

It is ordered that:-

"the appeal titled "Zulfiqar Ahmad Khan versus Tahira Begum" (58-13) has been dismissed and the appeal titled "Tahira Begum Vs. Zulfiqar Ahmad Khan" has been accepted, consequently, the suit titled "Zulfiqar Ahmad Khan Vs. Tahira Begum etc" the suit for confirmation of possession through specific performance, permanent and mandatory injunction is dismissed and the suit titled "Tahira Begum Vs. Zulfiqar Ahmad" the suit for recession of contract under section 35 of the Specific Relief act in respect of the sale agreement dated 6.8.2007 is decreed. The appellant/plaintiff Zulfiqar Ahmad Khan is directed to pay Rs.5000/- per month per shop from the date of agreement till handing over the possession of the suit property to the respondent No.1 with ~~mark up~~ at bank rate. The appellant is further directed to forthwith hand over the vacant possession of the suit property to the respondent No.1."

2

Given under my hand and seal of the court this 27/3 day of February 2018

COSTS OF APPEAL:

APPELLANT	AMOUNT	RESPONDENT	AMOUNT
Stamp for memo of appeal.	150/-	Stamp for petition.	0/-
Stamp for power of attorney.	05/-	Stamp for power of attorney.	04/-
Service of process fee.	03/-	Service of process etc.	0/-
Pleader's Fee Rs. (Certificate not attached)	00/-	Pleader's Fee Rs. (Certificate not attached).	10/-
Miscellaneous.	27/-	Miscellaneous.	02/-
TOTAL:-	150/-	TOTAL:-	06/-

ATTESTED TO BE TRUE COPY

Dated: 27-02-18

Fair Staff Officer to
District & Sessions Judge
Faisalabad Authorised 11/A/87 of
Shahadat Ordinance 1984

16 JUN 2025

(JUDGE ZULFIQAR AHMAD NAEEM)

Addl. District Judge,
Faisalabad

16 JUN 2025

IN THE LAHORE HIGH COURT LAHORE

135
13
16/5/16

10/13/16/2015
65
10/13/16/2015
27/5/16
18/5/16

R.F.A. NO. 246 of 2015

Tahir Begum Alias Tahira Shafique Daughter of Noor Muhammad resident of Mian House Main Street Ravi Mohallah Samundri District Faisalabad Through Irshad Ali Ch. Son of Ch. Muhammad Siddique.

APPELLANT
VERSUS

Zulfiqar Ahmad Khan Son of Baz Khan, Rajput by caste, resident of Chak No.208/RB Tehsil and District Faisalabad.

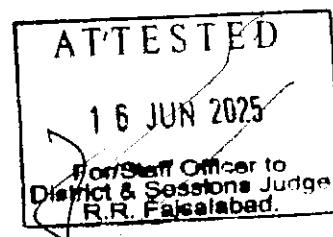
- 58 - 13
- 13/03/16

RESPONDENT

APPEAL UNDER SECTION 96 CPC AGAINST CONSOLIDATED JUDGEMENT AND DECREE DATED 03-12-2014 PASSED BY THE COURT OF SHAINSHAH RAZA KAMAL CIVIL JUDGE FAISALABAD THROUGH WHICH THE SUIT FOR SPECIFIC PERFORMANCE FILED BY THE RESPONDENT WAS DECREED WHEREAS SUIT FOR RESCISSION OF THE APPELLANT WAS DISPOSED OF.

Appellant respectfully submits as under:

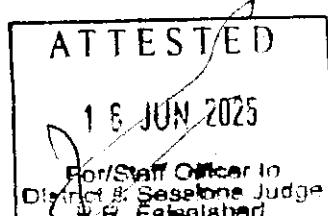
- That on 3-10-2009, the appellant filed a suit for rescission of contract dated 06-08-2007 and also prayed for recovery of possession of the suit premises on the ground that through an agreement to sell the



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respondent has paid only Rs:10,00,000/- out of sale consideration of
Rs:1,50,00,000/-.

2. That on the other hand the respondent filed a suit for confirmation of possession through specific performance on 01-12-2009.
3. That both the suits were consolidated vide order dated 26-03-2014.
4. That out of pleadings of the parties the following consolidated issues were framed:
 - 1) Whether defendant no.2 being lawful general power of attorney of defendant No.1 entered into an agreement to sell with respect to subject matter property details of which are mentioned in head note of the plaint through agreement to sell No.1098 dated 06-08-2007 against the consideration of Rs:1,50,00,000/- and received Rs:10,00,000/- as earnest money in presence of witnesses? OPP
 - 2) Whether defendant No.2 further received Rs:90,00,000/- in presence of witnesses from the plaintiff and only Rs:50,00,000/- are outstanding towards the plaintiff? OPP
 - 3) If the above said issues are proved in affirmative whether the plaintiff being owner in possession is entitled to get a decree for declaration of rights, confirmation of possession through specific performance, permanent and mandatory injunction with respect to suit property as prayed for? OPP
 - 4) Whether the plaintiff only paid Rs:10,00,000/- as consideration amount and failed to pay the remaining amount and contract became void? OPP
 - 5) Whether defendant Tahira Begum is entitled to get a decree for recession of contract U/S 35 of Specific Relief Act as prayed for? OPD
 - 6) Whether suit of defendant is barred by law being result of misconception? OPP

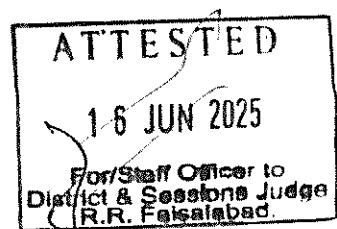


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- 7) Whether the suit of defendant is counter blast of the suit of the plaintiff? OPP
 - 8) Whether defendant has not come to the court with clean hands? OPP
 - 9) Relief.
5. That the learned trial court vide consolidated judgement and decree dated 03-12-2014 decreed the suit filed by the respondent and suit of the appellant was disposed of.
- 3-12-2014
6. That judgement and decree dated 20-12-2012, of learned trial court, is liable to be set aside on following amongst other:

GROUNDS

- i. That the agreement dated 06-08-2007 was admitted agreement and according to terms of the agreement the performance dated was 22-12-2007 and non payment of remaining sale consideration by the respondent on that date, eventually caused result of rescission of contract and forfeiture of the advance money on account of breach of terms of the agreement. However, deliberated delay of 7-years in payment of balance sale consideration was sufficient ground for dismissal of suit for specific performance. Moreover, character, conduct and role of the respondent disentitled the respondent for grant of decree for specific performance as per Explanation-I of Section 22 of Specific Relief Act.
- ii. That on date of execution of the agreement to sell, the possession was delivered to the respondent and he stands at the advantageous status despite delivery of possession non-payment of balance sale

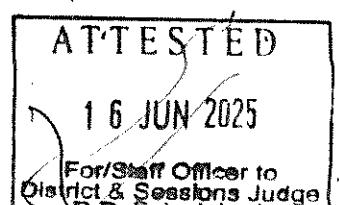


consideration disentitled the respondent for grant of decree for specific performance.

- iii. That the respondent committed another dishonesty with the rights of the appellant as he has fraudulently taken a plea of payment of Rs:90,00,000/- but he badly failed to prove this fact and this sole fact was sufficient to decline relief of specific performance.
- iv. That default in making payment in terms of contract and breach of terms of the contract committed by the respondent has been proved on record, but the learned trial court arbitrarily granted a gracious/concessional decree for specific performance to the respondent.
- v. That the learned trial court clearly held that the respondent failed to perform obligation. In view of the matter non invoking clause of rescission of contract and forfeiture of advance money is not proper exercise of the jurisdiction vested to him and non-dismissing suit for specific performance amounts to excess exercise of the jurisdiction.

In the above eventuality the appellant was entitled of decree for award of use and occupation as mense profit.

- vi. That the learned trial court committed a wrong/mistake in relief clause. As per law in case of non-performance of terms of the agreement to sell resulted into dismissal of suit for specific performance and reciprocally requiring to grant a decree as prayed for by the appellant, but disposing of suit for rescission of contract is not proper determination.
- vii. That in case of decreeing a suit for specific performance in consequence of that inflation of value of 14% was required to



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be awarded since 22-12-2007 against outstanding sale amount
Rs:1,40,00,000/- requiring to be granted.

- viii. That judgement and decree in suit for specific performance is suffered for illegality in all respects and liable to be set aside.

In the light of submissions made above, it is therefore, respectfully prayed that judgement and decree dated 03-12-2014 be set aside by accepting this appeal and suit of the appellant be ordered to be decreed as prayed for and suit for specific performance of the respondent be dismissed with cost throughout.



APPELLANT

Tahir Begum Alias Tahira Shafique
Daughter of Noor Muhammad resident of
Mian House Main Street Ravi Mohallah
Samundri District Faisalabad *Through*
Irshad Ali Ch. Son of Ch. Muhammad
Siddique.

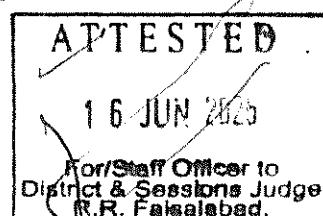
Through counsel

(Signature)
CH: ABDUL MAJEED - II
Advocate High Court,
52-Tamiz-ud-Din Law Chambers
Faisalabad C.C. No. P.F.B. 19202

Note:

This is the first regular first appeal on the subject ever made before this honourable court by the appellant whereas the respondent has already filed R.F.A No. 1815/2014 which is still pending.

ADVOCAATE



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IN THE COURT OF SHAINSHAH RAZA KAMAL, CIVIL JUDGE
1ST CLASS, FAISALABAD.

Zulfiqar Ahmad

Versus:

.....Plaintiff....
Tahira Begum and other.
.....Defendants....

Civil Suit No. 186-1
Date of Preference ... 01-12-2009.
Date of Decision.... 03-12-2014.

SUIT FOR DECLARATION OF RIGHTS AND CONFIRMATION OF
POSSESSION THROUGH SPECIFIC PERFORMANCE.

Tahira Begum through General Power of attorney
Arshad Ali s/o Ch. Muhammad Sadique

Versus:
Zulfiqar Ahmad Khan
.....Plaintiff....
.....Defendant....

Civil Suit No. 187-1.
Date of Preference .. 23-10-2009.
Date of Decision.... 03-12-2014.

SUIT U/S 35 OF SPECIFIC RELIEF ACT FOR RECESSION
OF POSSESSION REGARDING AGREEMENT DATED
06.08.2007.

CONSOLIDATED JUDGMENT

1. Through this single judgment I intend to decide two cases titled above. Hereinafter Zulfiqar Ahmad will be called as plaintiff whereas Tahira Begum and other will be called as defendants.
2. Brief facts of the suit titled "Zulfiqar Ahmad Vs Tahira Begum and other" are that plaintiff has filed suit for declaration of rights, confirmation of possession through specific performance of agreement to sell, permanent & mandatory injunction against defendants. The defendant No.1 was owner of property measuring 08M-222Sqfts comprising of 33-shops bearing Ahata No.3699, Khewat No.255, Khutani No.259 situated at Azan Plaza Chak No.212/R.B and defendant No.2 being general power of attorney entered into an agreement to sell with plaintiff through agreement No.1089 dated 06.08.2007 against the consideration of Rs.1,50,00,000/- and received Rs.10,00,000/- as earnest money. The target dated was fixed as 22.12.2007 and it was decided that plaintiff would pay the rest of Rs.1,40,00,000/- to defendants. The possession of subject matter property was handed over to plaintiff by defendants. The defendant No.2 received Rs.90,00,000/-

Shainshah Raza Kamal
Magistrate Section 30
Faisalabad.

03-12-14

ATTESTED

17 JUN 2025

For Staff Officer to
MAGISTRATE & SESSIONS JUDGE

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**IN THE COURT OF SHAINSHAH RAZA KAMAL, CIVIL JUDGE
1ST CLASS, FAISALABAD.**

Zulfiqar Ahmad

.....Plaintiff....

Versus:

Tahira Begum and other.

.....Defendants....

Civil Suit No. 186-1

Date of Preference .. 01-12-2009.

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Tahira Begum through General Power of attorney
Arshad Ali s/o Ch. Muhammad Sadique

.....Plaintiff....

Versus:

Zulfiqar Ahmad Khan

.....Defendant....

Civil Suit No. 187-1.

Date of Preference .. 23-10-2009.

Date of Decision.... 03-12-2014.

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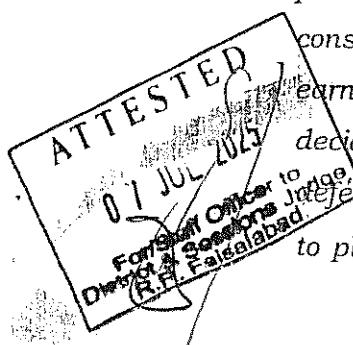
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Advocate-on-Record

Shainshah Raza Kamal,
Civil Judge 1st Class
Faisalabad



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Zulfiqar Ahmad Vs Tahira Begum

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as a part payment from balance amount in presence of witnesses and assured that defendant No.2 would execute sale deed in favour of plaintiff after receiving the balance amount Rs.50,00,000/- No receipt was issued with regard to reception of amount Rs.90,00,000/-. The defendant No.2 was requested to execute sale deed in favour of plaintiff after receiving the rest of Rs.50,00,000/- but defendant No.2 postponed the matter, therefore, a legal notice was served upon defendant No.2. The plaintiff came to know that defendants had already sold the subject matter property to one Mian Muhammad Shabbir through agreement dated 07.01.2005 against the consideration of Rs.1,10,00,000/- but defendants concealed this fact from plaintiff and also concealed the filing of the suit filed by Shabbir Ahmad against defendant No.1. The defendants were intimated many times to perform their part of contract after receiving Rs.50,00,000/- but defendants refused. Hence this suit.

3. After service of summons/notices, defendants appeared through counsel and submitted written statement and stated that plaintiff has paid Rs.10,00,000/- as earnest money and rest of sale consideration has not been paid by him, therefore, the earnest money has been forfeited. Furthermore, the plaintiff has filed suit for recession of the contract due to non-performance by plaintiff. The plaintiff has narrated false story to the extent of Rs.90,00,000/-. The defendants did not enter into agreement with other except plaintiff and prayed for dismissal of the suit.

4. Brief facts of suit titled "Tahira Begum Vs Zulfiqar Ahmad" are that defendant No.1 has filed the suit for recession of contract through her general power of attorney Irshad Ali and stated that defendant No.1 is owner of subject matter property as mentioned in Para No.1 of the plaint and entered into an agreement to sell with plaintiff against the consideration of Rs.1,50,00,000/- and paid Rs.10,00,000/- as earnest money while rest of Rs.1,40,00,000/- was to be paid till 22.12.2007. The possession was delivered to plaintiff who rented out the property to other persons and has been receiving the rent @ Rs.5,000/- per month per shop. The plaintiff was contracted many times to pay the rest of Rs.1,40,00,000/- and execute sale deed in his favour but plaintiff sent a legal notice to defendants and showed payment of Rs.90,00,000/- towards defendants. Lastly it is prayed that decree for recession of contract dated 06.08.2007 along with payment of amount @ Rs.5,000/- per month per shop since 12.12.2007 till handing over the possession of subject matter property and payment of rest of

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17 JUN 2023

For Grant Chancery Court

Official & Sessions Court

R.R. Faislabad

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Associate of Regd.

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207 JUL 2025

For Legal Officer to
District & Sessions Judge Jhelum
R.R. Faisalabad

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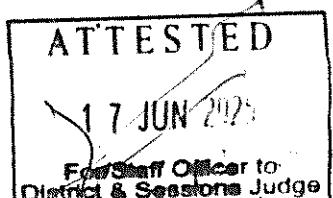
sale consideration along with 14% markup be ordered against plaintiff in favour of defendants. Hence this suit.

5. ||| Summons/notices were served upon plaintiff who filed written statement and stated that the suit is bad in law and does not fall under the domain of section 35 of Specific Relief Act as agreement to sell dated 06.08.2007 is not a contract. The possession of subject matter property was handed over to plaintiff. The suit in hand is a counter blast to the notice given to defendants by plaintiff. The plaintiff is always ready and willing to perform his part in contract. The defendants have concealed the facts from plaintiff with regard to agreement to sell with one Mian Muhammad Shabbir and has not come to the court with clean hands. The defendant No.1 has filed the suit which is liable to be dismissed with special costs U/S 35 of CPC and prayed for dismissal of the suit.
6. ||| Both the suits were consolidated by my learned predecessor-in-office vide order dated 26.03.2014, out of the divergent pleadings of the parties, following issues were generated which are reproduced in verbatim:-

CONSOLIDATED ISSUES.

1. Whether defendant No.2 being lawful general power of attorney of defendant No.1 entered into an agreement to sell with respect to subject matter property details of which are mentioned in the head note of the plaint through agreement to sell No.1098 dated 06.08.2007 against the consideration of Rs.1,50,00,000/- and received Rs.10,00,000/- as earnest money in presence of witnesses? OPP
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6. Whether suit of defendant is barred by law being result of misconception? OPP

Fazal Raza Kamal
Magistrate Section 30,
Mardan
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Zulfiqar Ahmad Vs Tahira Begum etc

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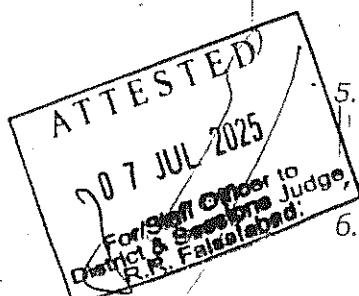
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207 JUL 2025



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Zulfiqar Ahmad Vs Tahira Begum et al.

7. Whether suit of defendant is counter blast of the suit of the plaintiff? OPP
8. Whether defendant has not come to the court with clean hands? OPP
9. Relief.

Brief of evidence

7. Plaintiff himself appeared as Pw.1 and produced Muhammad Shafique s/o Muhammad Sadique as Pw.2, Aman Ullah s/o Ghulam Muhammad Khan as Pw.3, Muhammad Nasir s/o Fatah Muhammad, stamp vendor as Pw.4 and tendered original Iqrar Nama as Exh.P.1, receipt of payment as Exh.P.2, copy of Fard Jamabandi as Exh.P.3, receipt of payment of Rs.50,00,000/- under order of the court Exh.P.4, receipt of property tax Exh.P.5, electricity bill Exh.P.6, copy of suit "Shabbir Vs Tahira Begum" as Exh.P.7, copy of order of the High Court Exh.P.8, copy of register of stamp vendor Exh.P.10, copy of Jamabandi as Exh.P.11, copy of mutation No.25803 Exh.P.12, copy of legal notice under objection Exh.P.13, receipt of TCS under objection Exh.P.14 and closed his oral as well as documentary evidence. On the other hand, defendant No.2 appeared as Dw.1 and produced Muhammad Saleem s/o Muhammad Amin as Dw.2 and tendered copy of general power of attorney Exh.D.1, copy of agreement to sell Exh.D.2, receipt Exh.D.3, Jamabandi as Exh.D.4 and closed oral as well as documentary evidence.

8. Pro and contra final argument heard. Record perused. The Court's issue-wise findings are as under:-

Issue No. 1

10. Onus to prove this issue was placed upon plaintiff. Plaintiff stated that he entered into an agreement to sell dated 06.08.2007 against the consideration of Rs.1,50,00,000/- with regard to subject matter property with defendants No.2 who was general power of attorney of defendant No.1 and paid Rs.10,00,000/- as earnest money in presence of witnesses. This execution of agreement to sell and payment of earnest money has been admitted by defendants and there is no dispute between the parties to the extent of agreement to sell dated 06.08.2007 and payment of earnest money Rs.10,00,000/-. This issue is decided in favour of plaintiff.

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17 JUN 2008 ISSUE NO.2.

For/Staff Officer to
District & Sessions Judge
R.R. Faisalabad

The onus to prove this issue was placed upon plaintiff. Pw.1
stated that he purchased the subject matter property from defendant

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Zulfiqar Ahmad Vs Tahira Begum etc

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Issue No. 1

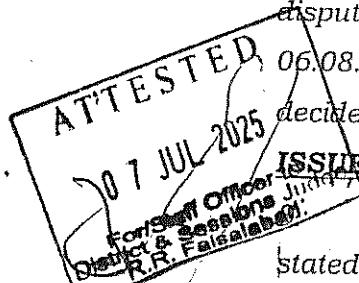
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ISSUE NO.2.

The onus to prove this issue was placed upon plaintiff. Pw.1 stated that he purchased the subject matter property from defendant

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Civil Jwala 1st Cross.
Faisalabad

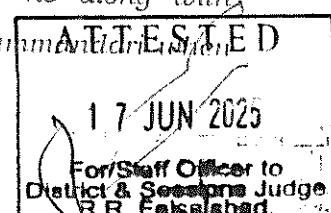
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No.1 against the consideration of Rs.1,50,00,000/- and paid Rs.10,00,000/- as earnest money, Rs.50,00,000/- under order of the court and Rs.90,00,000/- to defendant No.2 at his house at Summandari in presence of witnesses. The possession was delivered to plaintiff on 06.08.2007. The receipt of payment of Rs.90,00,000/- was asked for defendant No.2 but not only he refused to tender the receipt but also filed the suit against plaintiff. The suit titled Mian Shabbir Vs Tahira Begum is pending at Civil Court but it was dismissed due to non-production of evidence. The plaintiff was ready to perform his part in contract and also sent a legal notice to defendants but defendants quibbled. The plaintiff has been paying the property tax. During cross examination, Pw.1 admitted that he saw the Fard Jamabandi of subject matter property which was cleared from all encumbrances and he put his signatures on agreement to sell after reading over it. Pw.1 admitted that the date for performance of agreement was fixed as 22.12.2007 and it was agreed upon between the parties that the earnest money would be forfeited in case of non-payment of rest of sale consideration by plaintiff. Pw.1 admitted that he has been deriving benefits from it. Pw.1 stated that he came to know through defendant No.2 about the filing of suit "Shabbir Vs Tahira begum". Pw.1 showed his ignorance about the date of the agreement. Pw.1 stated that defendant No.2 arrived to him along with two persons out of whom Muhammad Sadique has died and consequently plaintiff along with others went to the house of defendant No.2 and paid Rs.90,00,000/- to him. Pw.1 showed his ignorance about the house number of defendant No.2 and stated that he saw defendant, his son and unknown person at his house. Pw.1 stated that he arranged the sale consideration through his friends. Pw.1 showed his ignorance about his amount in bank. Pw.1 stated that he contacted to defendant No.2 in the month of August and September 2008 and came to know about the dismissal of injunctive order through defendant No.2 who promised to execute the sale deed after dismissal of the suit. Pw.1 stated that the legal notice contained the same particulars as mentioned in the plaint. Pw.1 admitted that he submitted his written statement in the suit filed by Shabbir against Tahira Begum. Pw.1 admitted that he could not deposit the amount within time of one month and deposited the amount on 27.07.2009. Pw.1 stated that he cannot produce Allah Yaar as witness in the suit. Pw.1 denied that Allah Yaar was not present when payment was made. Pw.1 denied that he has not paid amount of Rs.90,00,000/- to defendant No.2. Pw.2 stated that he along with Zulfiqar went to the house of Muhammad Irshad at Summandari.



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Zulfiqar Ahmad Vs Tahira Begum etc

No.1 against the consideration of Rs.1,50,00,000/- and paid Rs.10,00,000/- as earnest money, Rs.50,00,000/- under order of the court and Rs.90,00,000/- to defendant No.2 at his house at Summandari in presence of witnesses. The possession was delivered to plaintiff on 06.08.2007. The receipt of payment of Rs.90,00,000/- was asked for defendant No.2 but not only he refused to tender the receipt but also filed the suit against plaintiff. The suit titled Mian Shabbir Vs Tahira Begum is pending at Civil Court but it was dismissed due to non-production of evidence. The plaintiff was ready to perform his part in contract and also sent a legal notice to defendants but defendants quibbled. The plaintiff has been paying the property tax. During cross examination, Pw.1 admitted that he saw the Fard Jamabandi of subject matter property which was cleared from all encumbrances and he put his signatures on agreement to sell after reading over it. Pw.1 admitted that the date for performance of agreement was fixed as 22.12.2007 and it was agreed upon between the parties that the earnest money would be forfeited in case of non-payment of rest of sale consideration by plaintiff. Pw.1 admitted that he has been deriving benefits from it. Pw.1 stated that he came to know through defendant No.2 about the filing of suit "Shabbir Vs Tahira begum". Pw.1 showed his ignorance about the date of the agreement. Pw.1 stated that defendant No.2 arrived to him along with two persons out of whom Muhammad Sadique has died and consequently plaintiff along with others went to the house of defendant No.2 and paid Rs.90,00,000/- to him. Pw.1 showed his ignorance about the house number of defendant No.2 and stated that he saw defendant, his son and unknown person at his house. Pw.1 stated that he arranged the sale consideration through his friends. Pw.1 showed his ignorance about his amount in bank. Pw.1 stated that he contacted to defendant No.2 in the month of August and September 2008 and came to know about the dismissal of injunctive order through defendant No.2 who promised to execute the sale deed after dismissal of the suit. Pw.1 stated that the legal notice contained the same particulars as mentioned in the plaint. Pw.1 admitted that he submitted his written statement in the suit filed by Shabbir against Tahira Begum. Pw.1 admitted that he could not deposit the amount within time of one month and deposited the amount on 27.07.2009. Pw.1 stated that he cannot produce Allah Yaar as witness in the suit. Pw.1 denied that Allah Yaar was not present when payment was made. Pw.1 denied that he has not paid amount of Rs.90,00,000/- to defendant No.2. Pw.2 stated that he along with Zulfiqar went to the house of Muhammad Irshad at Summandari when

TO BE ATTESTED
Advocate/Receptionist

Shainshah Raza Kamal
Civil Judge Class I
Court of Session

ATTESTED
07 JUL 2025
For Legal Officer
District & Sessions Judge
R.R. Faisalabad

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75

Zulfiqar Ahmad Vs Tahira Begum etc

amount Rs. 90,00,000/- was paid to him but receipt could not be reduced into writing due to Sunday. The defendant No.2 promised to endorse the receipt of amount Rs. 90,00,000/- at the back of agreement to sell. During cross examination, Pw.2 stated that he is a property dealer by profession. Pw.2 stated that Allah Yaar is present in Court. Pw.2 showed his ignorance about the date of agreement, place of agreement, fixed date for performance of agreement and remaining sale consideration. Pw.2 stated that he along with Zulfiqar went to Summandari and Allah Yaar was not present at that time. Pw.2 stated that he did not ask about the amount. Pw.2 admitted that he did not know the name of the person to whom he went to see. Pw.3 stated that the agreement to sell between plaintiff and Arhsad Ahmad was reduced in his presence and he also put his signatures and thumb impression on this agreement. Pw.3 stated that Arshad handed over the keys of subject matter property to plaintiff. During cross examination, Pw.3 stated that agreement was reduced into writing on 06.08.2007 and date was fixed for 22.12.2007. Pw.3 stated that the earnest money is forfeited and agreement is cancelled when the conditions are not fulfilled. Pw.3 showed his ignorance about the payment of rest of sale consideration after 22.12.2007. Pw.4 brought the record of stamp No. 1089 valued Rs. 100/- which was issued by Muhammad Arshad s/o Muhammad Sadique on 06.08.2007.

10. On the other hand, defendant No.2 appeared as Dw.1 and stated that Tahira begum is her paternal aunt and he being general power of attorney Exh.D.1 entered into an agreement to sell Exh.P.1 with plaintiff and receipt of payment Exh.P.2 was reduced into writing. Dw.1 stated that the sale consideration was Rs. 1,50,00,000/- while Rs. 10,00,000/- was paid as earnest money. It was settled between the parties that the earnest money was to be forfeited in case of default by plaintiff due to non-payment of sale consideration and defendant was to pay the double amount of earnest money in case of non-execution of sale deed. The possession was delivered to plaintiff. There are thirty shops and every shop was rented out against monthly rent of Rs. 5,000/- each. Dw.1 stated that he contacted many times to plaintiff for rest of sale consideration but plaintiff quibbled. Dw.1 stated that plaintiff did not pay him Rs. 90,00,000/- and has filed the suit for specific performance of agreement to sell after filing of suit by defendant for recession of contract.

During cross examination, Dw.1 stated that the Fard Malkyat could not be issued due to the injunctive order passed by the court. Dw.1 admitted that he did not tender the Fard Malkyat to plaintiff as when performance of agreement approached, then injunctive order was

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7 JUN 2025

Fazal Khan

Officer

Judge

District & Sessions Judge

R.R. Falsafah

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Zulfiqar Ahmad Vs Tahira Begum etc

amount Rs.90,00,000/- was paid to him but receipt could not be reduced into writing due to Sunday. The defendant No.2 promised to endorse the receipt of amount Rs.90,00,000/- at the back of agreement to sell. During cross examination, Pw.2 stated that he is a property dealer by profession. Pw.2 stated that Allah Yaar is present in Court. Pw.2 showed his ignorance about the date of agreement, place of agreement, fixed date for performance of agreement and remaining sale consideration. Pw.2 stated that he along with Zulfiqar went to Summandari and Allah Yaar was not present at that time. Pw.2 stated that he did not ask about the amount. Pw.2 admitted that he did not know the name of the person to whom he went to see. Pw.3 stated that the agreement to sell between plaintiff and Arhsad Ahmad was reduced in his presence and he also put his signatures and thumb impression on this agreement. Pw.3 stated that Arshad handed over the keys of subject matter property to plaintiff. During cross examination, Pw.3 stated that agreement was reduced into writing on 06.08.2007 and date was fixed for 22.12.2007. Pw.3 stated that the earnest money is forfeited and agreement is cancelled when the conditions are not fulfilled. Pw.3 showed his ignorance about the payment of rest of sale consideration after 22.12.2007. Pw.4 brought the record of stamp No.1089 valued Rs.100/- which was issued by Muhammad Arshad s/o Muhammad Sadique on 06.08.2007.

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Kamal
Shainshah
Civil Jt.
1st O/S
at Bar

TO BE ATTESTED
TO BE TRUE COPY
Attested on Recd

ATTESTED
207 JUL 2025

For Legal Officer to
District & Sessions Judge
P.R. Enlisted

issued by Court. Dw.1 stated that he came to know from the neighboring shopkeepers about the monthly rent of each shop as Rs.5,000/- Dw.1 denied that he received Rs.90,00,000/- from plaintiff and not issued the receipt to him. Dw.2 stated that the subject matter property comprising of 08-Marlas and consisting of thirty shops were rented. The plaintiff entered into an agreement to sell with defendant with regard to subject matter property but plaintiff has not paid the amount and agreement between the parties has come to an end. Dw.2 stated that he accompanied Arshad for receiving the amount from plaintiff. During cross examination, Dw.2 stated that he has asked from the shopkeepers about rent of shop. Dw.2 admitted that it is duty of the seller of the property to provide Fard Malkyat and copy of National Identity Card (NIC). Dw.2 denied that Arshad has received Rs.90,00,000/- from plaintiff. Dw.2 stated that the amount Rs.90,00,000/- has also not been mentioned before Hon'ble Lahore High Court, Lahore.

11. The plaintiff has filed suit for declaration of rights, confirmation of possession against defendants and stated that an agreement to sell was reduced into writing between plaintiff and defendant No.2 who was general power of attorney of defendant No.1. This agreement to sell was originally executed on 06.08.2007 and was executed against the consideration of Rs.1,50,00,000/- out of Rs.10,00,000/- was paid as earnest money while rest of Rs.1,10,00,000/- were to be paid till 22.12.2007 with this condition that the defaulting party would be bound to suffer the consequences in form of forfeiting of earnest money in case of default by plaintiff or double payment to plaintiff in case of default by defendant. It is important to note that defendants have not denied from the execution of agreement to sell and reception of earnest money. So, the question with regard to the execution of agreement to sell and earnest money needs no clarification. The dispute at this stage is regard to the payment of rest of sale consideration and attribution of default. Both the parties are claiming their readiness and willingness in performance of their respective parts of the agreement and are attributing default on other side. So far as payment of Rs.90,00,000/- is concerned, the plaintiff insisted that he made the payment of said amount to defendant No.2 at his house in presence of Muhammad Shafique and Allah Yaar but strange enough, the co-witness Muhammad Shafique negated the presence of Allah Yaar at that time. Although, plaintiff has taken the plea of payment of Rs.90,00,000/- to defendant No.2 in his plaint even in presence of witnesses but the plaint is silent when and where such payment was made.

ATTENDED

17 JUN 2025

For/Staff Officer in
District & Sessions Judge

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Zulfiqar Ahmad Vs Tahira Begum etc

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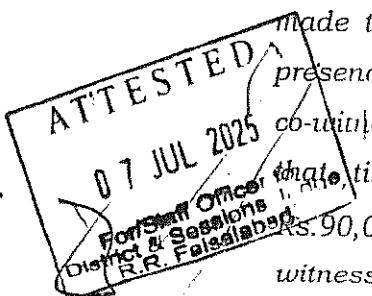
issued by Court. Dw.1 stated that he came to know from the neighboring shopkeepers about the monthly rent of each shop as Rs.5,000/- Dw.1 denied that he received Rs.90,00,000/- from plaintiff and not issued the receipt to him. Dw.2 stated that the subject matter property comprising of 08-Marlas and consisting of thirty shops were rented. The plaintiff entered into an agreement to sell with defendant with regard to subject matter property but plaintiff has not paid the amount and agreement between the parties has come to an end. Dw.2 stated that he accompanied Arshad for receiving the amount from plaintiff. During cross examination, Dw.2 stated that he has asked from the shopkeepers about rent of shop. Dw.2 admitted that it is duty of the seller of the property to provide Fard Malkyat and copy of National Identity Card (NIC). Dw.2 denied that Arshad has received Rs.90,00,000/- from plaintiff. Dw.2 stated that the amount Rs.90,00,000/- has also not been mentioned before Hon'ble Lahore High Court, Lahore.

11. The plaintiff has filed suit for declaration of rights, confirmation of possession against defendants and stated that an agreement to sell was reduced into writing between plaintiff and defendant No.2 who was general power of attorney of defendant No.1. This agreement to sell was originally executed on 06.08.2007 and was executed against the consideration of Rs.1,50,00,000/- out of Rs.10,00,000/- was paid as earnest money while rest of Rs.1,40,00,000/- were to be paid till 22.12.2007 with this condition that the defaulting party would be bound to suffer the consequences in form of forfeiting of earnest money in case of default by plaintiff or double payment to plaintiff in case of default by defendant. It is important to note that defendants have not denied from the execution of agreement to sell and reception of earnest money. So, the question with regard to the execution of agreement to sell and earnest money needs no clarification. The dispute at this stage is regard to the payment of rest of sale consideration and attribution of default. Both the parties are claiming their readiness and willingness in performance of their respective parts of the agreement and are attributing default on other side. So far as payment of Rs.90,00,000/- is concerned, the plaintiff insisted that he

made the payment of said amount to defendant No.2 at his house in presence of Muhammad Shafique and Allah Yaar but strange enough, the co-witness Muhammad Shafique negated the presence of Allah Yaar at that time. Although, plaintiff has taken the plea of payment of Rs.90,00,000/- to defendant No.2 in his plaint even in presence of witnesses but the plaint is silent when and where such payment was

Shainshah Patel
Date 1st August 2007
Civil No. 61

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Zulfiquar Ahmad Vs. Tahira Begum etc.

made. During the phase of evidence plaintiff disclosed the fact that he made the payment of Rs.90,00,000/- to Arshad on 16.12.2007 (Sunday) and this amount was arranged by him from his companions but unluckily not a single one from whom payment was borrowed has been produced as a witness in Court, meaning thereby plaintiff has withheld the best evidence. Plaintiff admitted that he had several bank accounts but showed his ignorance about the account from which such amount was laying even no bank statement with regard to the month of December, 2007 has been brought on record. The plaintiff showed his ignorance about the house number of Arshad but this is not fatal because the payment allegedly made 07-years back but both the witnesses who were present at the time of payment have narrated different description of the house of Arshad. The plaintiff being Pw.1 admitted that he has not produced Allah Yaar as witness in Court because he is a Proclaimed Offender but Pw.2 marked his presence in Court which shows that payment was not made in presence of Allah Yaar and Shafique simultaneously. It is true under Article 17 and 79 of Qunan-e-Shahdat, the plaintiff has to produce the two witnesses in support of his version specially when financial dealing are concerned but plaintiff has failed to produce the two attesting witnesses of payment of Rs.90,00,000/- and reliance is placed in NLR 2008 CIV SC 333 Pw.2 who is the witness of only payment of Rs.90,00,000/- has negated the version of plaintiff. Even, Pw.3 also showed his ignorance about the payment of sale consideration by plaintiff to Arshad after 22.12.2007. One of the most important question is still wanting answer from plaintiff that he stated that he made payment to Arshad on 16.12.2007 but after that contacted to him in August/September 2008 just after 08/9-months from payment of huge amount and no readiness and willingness was shown during this period. The plaintiff was in a position to force defendant to execute sale deed in his favour but plaintiff postponed the execution of sale deed till the dismissal of suit filed by Shabbir Ahmad against Tahira Begum etc. The plaintiff admitted that he has good knowledge about the matters of property and he saw the Revenue Record which was clear from all encumbrances shows that plaintiff is not unaware of Revenue dealing and in same context, he asked for receipt of Rs.90,00,000/- from Arshad who promised to issue the same on next day but plaintiff did not approach him after 16.12.2007 and none of the witness has uttered single word with regard to the demand of plaintiff about reception of Rs.90,00,000/- after 16.12.2007. The onus to prove this issue that plaintiff paid Rs.90,00,000/- to defendant No.2 was upon plaintiff but

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17 JUN 2025

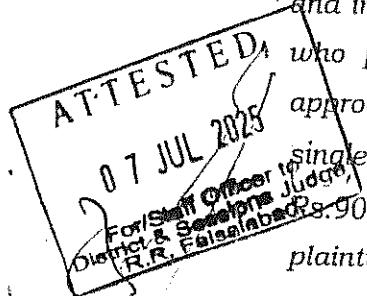
For/Staff Officer to
District & Sessions Judge
R.R. Falsalebad.

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Zulfiqar Ahmad Vs Tahira Begum etc

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TO BE ATTESTED
Advocate in Record



plaintiff has failed to discharge the burden. Hence this issue is decided against the plaintiff and in favour of defendants.

Issue No.3

12. Onus to prove this issue was placed upon plaintiff. It is the plaintiff who has to prove the execution of agreement to sell, payment of sale consideration and performance of his part in contract. Generally the burden of proof lies on the plaintiff as the plaintiff has filed the suit for specific performance of agreement to sell and he is under legal obligation to prove the same. The reliance is placed upon 2006 SCMR 340. Plaintiff stated that he entered into an agreement to sell dated 06.08.2007 against the consideration of Rs. 1,50,00,000/- with regard to subject matter property with defendants No.2 who was general power of attorney of defendant No.1 and paid Rs. 10,00,000/- as earnest money in presence of witnesses. This execution of agreement to sell and payment of earnest money has been admitted by defendants and there is no dispute between the parties to the extent of agreement to sell dated 06.08.2007 and payment of earnest money Rs. 10,00,000/-. The plaintiff stated that he paid Rs. 10,00,000/- as earnest money, Rs. 90,00,000/- to Arshad on 16.12.2007 and rest of Rs. 50,00,000/- were deposited in Court under the order of the Court and there is nothing outstanding against him and he is entitled to decree for specific performance. This version of plaintiff has been partially denied by the defendants on the ground that no amount of Rs. 90,00,000/- was paid by plaintiff and plaintiff had to pay the rest of sale consideration to defendants. The defendants have also filed suit for recession of contract against plaintiff. So far as payment of Rs. 90,00,000/- is concerned, the plaintiff has failed to prove the same and findings on issue No.2 are clear in this respect. So far as attribution of default is concerned, both the parties are equally responsible. The stance of plaintiff that he was ready and willing to pay the rest of sale consideration till 22.12.2007 is not proved as the plaintiff deposited Rs. 50,00,000/- in Court on 27.07.2009 which shows that the plaintiff does not have Rs. 1,40,00,000/- with him till 22.12.2007. The payment of Rs. 90,00,000/- has also not proved. This non-availability of sale consideration did not compel the plaintiff to urge defendants for execution of sale deed on 22.12.2007. The plaintiff cannot take the shelter of readiness for the performance of his part. The plaintiff admitted that he was offered by defendant No.2 to get execute the sale deed after dismissal of injunctive order but plaintiff refused and postponed the same till the dismissal of the suit. The application for injunction was dismissed on 22.10.2008 while suit was dismissed on 19.12.2012 meaning thereby

ATTESTED

21 JUN 2025

For/Officer to
District & Sessions Judge
R. Faisalabad.

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Zulfiqar Ahmad Vs Tahira Begum etc

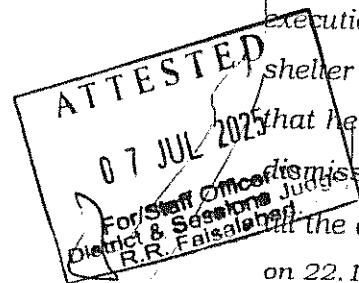
plaintiff has failed to discharge the burden. Hence this issue is decided against the plaintiff and in favour of defendants.

Issue No.3

12. Onus to prove this issue was placed upon plaintiff. It is the plaintiff who has to prove the execution of agreement to sell, payment of sale consideration and performance of his part in contract. Generally the burden of proof lies on the plaintiff as the plaintiff has filed the suit for specific performance of agreement to sell and he is under legal obligation to prove the same. The reliance is placed upon 2006 SCMR 340. Plaintiff stated that he entered into an agreement to sell dated 06.08.2007 against the consideration of Rs. 1,50,00,000/- with regard to subject matter property with defendants No.2 who was general power of attorney of defendant No.1 and paid Rs. 10,00,000/- as earnest money in presence of witnesses. This execution of agreement to sell and payment of earnest money has been admitted by defendants and there is no dispute between the parties to the extent of agreement to sell dated 06.08.2007 and payment of earnest money Rs. 10,00,000/-. The plaintiff stated that he paid Rs. 10,00,000/- as earnest money, Rs. 90,00,000/- to Arshad on 16.12.2007 and rest of Rs. 50,00,000/- were deposited in Court under the order of the Court and there is nothing outstanding against him and he is entitled to decree for specific performance. This version of plaintiff has been partially denied by the defendants on the ground that no amount of Rs. 90,00,000/- was paid by plaintiff and plaintiff had to pay the rest of sale consideration to defendants. The defendants have also filed suit for recession of contract against plaintiff. So far as payment of Rs. 90,00,000/- is concerned, the plaintiff has failed to prove the same and findings on issue No.2 are clear in this respect. So far as attribution of default is concerned, both the parties are equally responsible. The stance of plaintiff that he was ready and willing to pay the rest of sale consideration till 22.12.2007 is not proved as the plaintiff deposited Rs. 50,00,000/- in Court on 27.07.2009 which shows that the plaintiff does not have Rs. 1,40,00,000/- with him till 22.12.2007. The payment of Rs. 90,00,000/- has also not proved. This non-availability of sale consideration did not compel the plaintiff to urge defendants for execution of sale deed on 22.12.2007. The plaintiff cannot take the shelter of readiness for the performance of his part. The plaintiff admitted that he was offered by defendant No.2 to get execute the sale deed after dismissal of injunctive order but plaintiff refused and postponed the same till the dismissal of the suit. The application for injunction was dismissed on 22.10.2008 while suit was dismissed on 19.12.2012 meaning thereby

Shainshah
Kanha
Civil Judge
1st Class
Faisalabad

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Advocate-in-Record



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79

Zulfiqar Ahmad Vs Tahira Begum etc.

that defendants were willing to perform their part after 22.10.2008. The plaintiff stated that he was ready to execute the sale deed in his favour on 2009 but he got prepared the notices which were sent to defendants. One important aspect has come to surface that why plaintiff did not execute sale deed after 22.10.2008 when he paid Rs.90,00,000/- to defendants. The execution of sale deed in favour of plaintiff was the best way to save his investment in the property but again it shows that plaintiff did not have sale consideration with him at that time and was unable to perform his part in contract. The possession was delivered to plaintiff by defendants shows that defendants were sincere in the performance of agreement and this transfer of possession turned the agreement into contract. On the other hand, the filing of suit titled "Muhammad Shabbir Vs Tahira Begum" for possession through specific performance of agreement dated 07.01.2005 and non-disclosure of this fact at the time of agreement to sell Exh.P.1 is a question mark on the credibility of defendants. The defendants entered into an agreement to sell but it was not pointed out by them. The defendants file suit on 22.10.2009 while the suit titled "Muhammad Shabbir Vs Tahira begum" was dismissed on 19.12.2012 and present suit of defendants does not mention about it. In these circumstances, both the parties are at default, although major contribution in default is attributed to plaintiff but it does not debar him from specific performance of agreement to sell. The plaintiff stated that he has paid Rs.50,00,000/- in Court while has failed to prove the payment of Rs.90,00,000/-. The version of plaintiff for specific performance of agreement to sell is regarded and plaintiff is directed to pay the rest of Rs.90,00,000/- to defendants along with inflation of value of money @ 14% since 22.12.2007 within a period of one-month, otherwise the version of plaintiff with regard to specific performance of agreement to sell shall be discarded. Therefore, this issue is decided in favour of plaintiff and against the defendants.

ISSUE No.4.

13.

Onus probandi of this issue was upon the defendants. In the light of my findings supra on issues No.2 it has been observed that plaintiff has failed to prove the payment of Rs.90,00,000/- to defendant No.2. The plaintiff only paid Rs.10,00,000/- to defendant No.2 as earnest money. Hence this issue is decided in favour of defendants and against the plaintiff.

ISSUE No.5.

7 JUN

ATTESTED
For Staff Officer
District & Sessions Judge
D.R. Faisalabad
The defendants have filed a suit for recession of contract under section

Onus probandi of this issue was upon the defendants.

that defendants were willing to perform their part after 22.10.2008. The plaintiff stated that he was ready to execute the sale deed in his favour on 2009 but he got prepared the notices which were sent to defendants. One important aspect has come to surface that why plaintiff did not execute sale deed after 22.10.2008 when he paid Rs.90,00,000/- to defendants. The execution of sale deed in favour of plaintiff was the best way to save his investment in the property but again it shows that plaintiff did not have sale consideration with him at that time and was unable to perform his part in contract. The possession was delivered to plaintiff by defendants shows that defendants were sincere in the performance of agreement and this transfer of possession turned the agreement into contract. On the other hand, the filing of suit titled "Muhammad Shabbir Vs Tahira Begum" for possession through specific performance of agreement dated 07.01.2005 and non-disclosure of this fact at the time of agreement to sell Exh.P.1 is a question mark on the credibility of defendants. The defendants entered into an agreement to sell but it was not pointed out by them. The defendants file suit on 22.10.2009 while the suit titled "Muhammad Shabbir Vs Tahira begum" was dismissed on 19.12.2012 and present suit of defendants does not mention about it. In these circumstances, both the parties are at default, although major contribution in default is attributed to plaintiff but it does not debar him from specific performance of agreement to sell. The plaintiff stated that he has paid Rs.50,00,000/- in Court while has failed to prove the payment of Rs.90,00,000/. The version of plaintiff for specific performance of agreement to sell is regarded and plaintiff is directed to pay the rest of Rs.90,00,000/- to defendants along with inflation of value of money @ 14% since 22.12.2007 within a period of one-month, otherwise the version of plaintiff with regard to specific performance of agreement to sell shall be discarded. Therefore, this issue is decided in favour of plaintiff and against the defendants.

ISSUE No.4.

13. Onus probandi of this issue was upon the defendants. In the light of my findings supra on issues No.2 it has been observed that plaintiff has failed to prove the payment of Rs.90,00,000/- to defendant No.2. The plaintiff only paid Rs.10,00,000/- to defendant No.2 as earnest money. Hence this issue is decided in favour of defendants and against the plaintiff.

ISSUE No.5.

Onus probandi of this issue was upon the defendants. The defendants have filed a suit for recession of contract under section

Shainmoini Raza Kamal
B.A.LL.B.
Civil J.D.
M.A.

TO BE ATTESTED
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Advocate-in-Record

ATTESTED
07 JUL 2015
For/Staff Officer to
the Plaintiff,
F.M. & Sessions Judge,
R.R. Faisalabad.

35 of Specific Relief Act with regard to agreement to sell dated 06.08.2007. The bear reading of agreement to sell Exh.P.1 shows that the seller of the property stated that this property is free from encumbrances and is not mortgaged with any financial institute. Furthermore, Arshad Ali being general power of attorney did not enter into an agreement with anyone else but plaintiff of suit titled "Muhammad Shabbir Vs Tahira Begum etc" negated the stance of Arshad Ali. This suit and injunctive order was an obstacle in the performance of agreement to sell on behalf of plaintiff. Although, plaintiff also attributed to the default and he has been burdened with inflation rate. The default on part of defendants have deprived them from the decree under section 35 of Specific Relief Act. The defendants cannot claim for recession of contract at this stage when they are also defaulters in performance of their part of contract. Hence this issue is decided against defendants.

ISSUE No.6.

13. Onus probandi of this issue was upon the plaintiff. In the light of my findings supra on issues above, it has been observed that defendants have filed the suit for recession of contract which is very much maintainable in the provisions of law. The plaintiff has failed to prove any fraud and misrepresentation on part of defendants. Hence this issue is decided against the plaintiff.

ISSUE No.7.

13. Onus probandi of this issue was upon the plaintiff. In the light of my findings supra on issues it has been observed that plaintiff was failed to perform his part of contract. The defendants have filed the suit for the recession of contract for which they are competent. The plaintiff has failed to prove that suit filed by defendants was a counter blast rather it was filed on the failure of part of performance on part of plaintiff. Hence this issue is answered in negative..

ISSUE No.8.

14. The onus to prove this issue was placed upon plaintiff. The plaintiff has not lead any evidence with respect to the fact that defendants have not came to the court with clean hands. Hence this issue is decided in negative.

RELIEF.

17. In the light of my findings on the above said issues, suit of the plaintiff "Zulfiqar Ahmad Vs Tahira Begum and other" suit for declaration of rights, confirmation of possession through specific performance of agreement to sell, permanent & mandatory injunction is hereby decree subject to payment of Rs.90,00,000/- to defendants along with

17 JUN 2023
For Staff Officer to District & Sessions Judge S.M. Encashment

27)

35 of Specific Relief Act with regard to agreement to sell dated 06.08.2007. The bear reading of agreement to sell Exh.P.1 shows that the seller of the property stated that this property is free from all encumbrances and is not mortgaged with any financial institute. Furthermore, Arshad Ali being general power of attorney did not enter into an agreement with anyone else but pendency of suit titled "Muhammad Shabbir Vs Tahira Begum etc" negated the stance of Arshad Ali. This suit and injunctive order was an obstacle in the performance of agreement to sell on behalf of plaintiff. Although, plaintiff also attributed to the default and he has been burdened with inflation rate. The default on part of defendants have deprived them from the decree under section 35 of Specific Relief Act. The defendants cannot claim for recession of contract at this stage when they are also defaulters in performance of their part of contract. Hence this issue is decided against defendants.

ISSUE No.6.

13. Onus probandi of this issue was upon the plaintiff. In the light of my findings supra on issues above, it has been observed that defendants have filed the suit for recession of contract which is very much maintainable in the provisions of law. The plaintiff has failed to prove any fraud and misrepresentation on part of defendants. Hence this issue is decided against the plaintiff.

ISSUE No.7.

13. Onus probandi of this issue was upon the plaintiff. In the light of my findings supra on issues it has been observed that plaintiff was failed to perform his part of contract. The defendants have filed the suit for the recession of contract for which they are competent. The plaintiff has failed to prove that suit filed by defendants was a counter blast rather it was filed on the failure of part of performance on part of plaintiff. Hence this issue is answered in negative..

ISSUE No.8.

14. The onus to prove this issue was placed upon plaintiff. The plaintiff has not lead any evidence with respect to the fact that defendants have not came to the court with clean hands. Hence this issue is decided in negative.

RELIEF.

17. In the light of my findings on the above said issues, suit of the plaintiff "Zulfiqar Ahmad Vs Tahira Begum and other" suit for declaration of rights, confirmation of possession through specific performance of agreement to sell, permanent & mandatory injunction is hereby decree subject to payment of Rs.90,00,000/- to defendants along

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Advocate-on-Record

ATTESTED
17 JUL 2025
For Govt Officer to
District & Sessions Judge
R.R. Faisalabad

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81

Zulfiqar Ahmad Vs Tahira Begum Ch

with inflation of value of money @ 14% since 22.12.2007 within a period of one-month, otherwise, the suit of plaintiff deemed to have been dismissed and suit titled "Tahira Begum Vs Zulfiqar Ahmad Khan" suit for recession of contract under section 35 of Specific Relief Act is hereby disposed. There is no order as to costs. Decree sheet should follow the events. Files be consigned to records.

Announced:
03.12.2014

Shainshah Raza Kamal,
Civil Judge 1st Class,
Faisalabad.

Certified that this judgment consist. of 12-pages, each has been dictated, read over, corrected and signed by me.
Dated: 03.12.2014.

Shainshah Raza Kamal,
Civil Judge 1st Class,
Faisalabad.

Shainshah
Civil Judge
Faisalabad
03/12/2014

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Fet/ Staff Officer to
District & Sessions Judge
Faisalabad Authorised UCA 87 of
Gazette-Suhadaul Ordinance 1984

17 JUN 2025

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81

Zulfiqar Ahmad Vs Tahira Begum etc

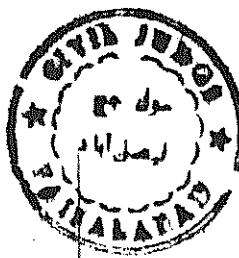
with inflation of value of money @ 14% since 22.12.2007 within a period of one-month, otherwise, the suit of plaintiff deemed to have been dismissed and suit titled "Tahira Begum Vs Zulfiqar Ahmad Khan" suit for recession of contract under section 35 of Specific Relief Act is hereby disposed. There is no order as to costs. Decree sheet should follow the events. Files be consigned to records.

Announced:
03.12.2014.

Shainshah Raza Kamal,
Civil Judge Ist Class,
Faisalabad.

Certified that this judgment consists of 12-pages, each has been dictated, read over, corrected and signed by me.
Dated: 03.12.2014.

Shainshah Raza Kamal,
Civil Judge Ist Class,
Faisalabad.



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Record Item No.
Date of Application.
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Date of Delivery. 08/07/25

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For: Court Officer to
District & Sessions Judge
Faisalabad, Authority No: A 87 of
Dohon-e-Shahdat Ordinance 1924

07 JUL 2025

07-07-2025

..... ذکری شیٹ دعویٰ

فصل آباد

صاحب بولنگ درجہ

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82

قدیر نبر 200 بابت مال

Zulfiqar Ahmad Khan S/o Buz Khan Caste Rajput R/o Chot
No: 2108/R.B Tehsil City Distt. Faisalabad.

علی ۱۵۴

پیشان

D Tahira Begum alias Tahira Shafique, D/O Noor Muhammad, caste
 Arain R/o Mian House, Mian Street, Davi Mohalleh, Tughlak Samundri,
 Distt Faisalabad (Presently residence at N.I. Syana, Close Road (PTO))
 Suit for declaration, confirmation of possession through specific
 performance, permanent & mandatory injunction etc.
 in respect of agreement to sell bearing document No: 1089
 dated 06-08-2007 in respect of Property measuring 8-M. 222 Sq.yd.
 comprising opp. Shops No. 1 to 16 along with basement including (PTO)
 دعویٰ بغرض اختیار ساخت بابت رسم کورٹ فیس مبلغ
 1,50,000/-

01-12-2009

تاریخ دادی دعویٰ

Suit of the plaintiff "Zulfiqar Ahmad Vs Tahira Begum etc" for
 declaration of rights, confirmation of possession through specific
 performance of agreement to sell, permanent & mandatory injunction is
 hereby decree subject to payment of Rs. 90,000/- to defendants along
 with inflation of value of money @ 14% since 12.08.07 within a period
 of one-month, otherwise, the suit of plaintiff deemed to have been
 dismissed and suit titled "Tahira Begum Vs Zulfiqar Ahmad Khan" suit
 for recession of contract under section 35 of Specific Relief Act is hereby
 disposed. One copy of the judgment be placed in the connected suit.

دعای

خرچ دعوے

5/-

اشامپ وکالت نامہ

15000/-

10/-

اشامپ درخواست

10/-

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اشامپ دستاویزات

-

فیس وکیل

T

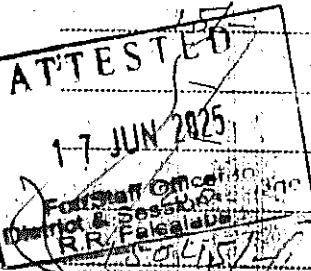
خرچ گواہان

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مقرر طلباء جات

15/-

میزان



Shahnshah Plaza Kamal
Civil Judgment Class 2004
Faisalabad

63/2/2477

82

Zulfiqar Ahmad V.

بدرالٹ جناب سہنوار رضا خاں صاحب
بعلی شاہ اول / ڈیمودلہ 30 لکھ .. ڈگری شیٹ دعویٰ

Q95

بعلی آباد

صاحب سول برج درج

بدرالٹ جناب

قدموں پر 200 بات مال

Zulfiqar Ahmed Khan S/o Gaz Khan caste Rajput, R/o Chak.
No: 2108/R.B. Tehsil City Distt. Faisalabad.

دعایہ عیان

بیان

① Tahira Begum alias Tahira Shafique, D/o Noor Muhammad, caste
Raihan R/o Mian House, Mian Street, Ravi Mohallah, Tehsil Samundri,
District Faisalabad. Presently residence at Al-Syria Close Road (P.T.O.)
Suit for declaration, confirmation of possession through specific
performance, permanent & mandatory injunction etc.
in respect of agreement to sell bearing document No. 1084
dated 06-08-2007 in respect of Property measuring 8-M, 222 Sq.yd.
comprising of Splots No. 1 to 16 alongwith basement including (P.T.O.)
= 6,50,000/- دعویٰ بفرض اختیار ماعت بات رسوم کورٹ فیس مبلغ

01-12-2009

تاریخ دادی دعویٰ

Suit of the plaintiff "Zulfiqar Ahmed Vs Tahira Begum" and other suit for
declaration of rights, confirmation of possession through specific
performance of agreement to sell, permanent & mandatory injunction is
hereby decree subject to payment of Rs. 90,00,000/- to defendants along
with inflation of value of money @ 14% since 22-12-2007 within a period
of one-month, otherwise, the suit of plaintiff deemed to have been
dismissed and suit titled "Tahira Begum Vs Zulfiqar Ahmed Khan" suit
for recession of contract under section 35 of Specific Relief Act is hereby
disposed. One copy of the judgment be placed in the connected suit.

دعاویٰ	خرچ دعوے
5/- اشامپ وکالت نام	1500/-
10/- اشامپ درخواست	10/-
- اشامپ دستاویزات	15/-
- فیس وکیل	-
- خرچ گواہان	-
- متفرق طلباء جات	20/-
15/- میزان	15045/-

Shainshah Qaza Kaujeh
Civil Judge 1st Class
Faisalabad
2014

ہر ستم

13/7/2025

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Advocate-in-Record

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07 JUL 2025

For/Staff Officer to
District & Sessional Jui.
R.R. Faisalabad

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83.

Defendant

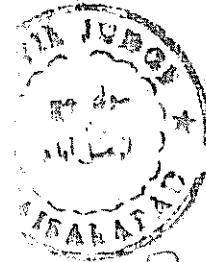
Ballyhaunis, County Mayo, Republic of Ireland.

② Muhammad Ishaq Ali Ch. S/o Ch. Muhammad
Siddique caste Asian R/o chak No. 420/RB post office
Gojra, Tehsil Gojra, Distt. T. T. Singh (Presently residing
at 128/C Ravi Mohalla, Tehsil Samanauli, Distt. Faisalaabad.
The General Attorney of Tahira Begum now the defendant no 1

Plaint:- Shops private no 1 to 17 situated on ground
floor bearing Ghata No. 3699, Khani No. 255, Khatuni
No. 259, Ward No. 2 according to gazet Jamabandi for
the year 1993-94, situated in Azaan(Azlan) Plaza chak
No. 212/RB, Tehsil City Distt. Faisalabad alongwith
Utilities, Passage, way internal & external with all
rights etc. free from all encumbrance etc.
in favour of the Plaintiff in presence of the marginal
witnesses against a consideration of Rs. 1,50,00,000/-

Shainshah Raza Kamal
Civil Judge 1st Class,
Faisalabad.

03-12-14



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Date of Preparation _____
Date of Delivery _____

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For : State of _____
District _____ Sub-District _____
Municipal Authority _____
Mian Shaukat Ali Ordinance 1984

25/06/2025 26/06/2025 17 JUN 2025

Defendant

Ballyhaanir, Country Mayo, Republic of Ireland.

(1) Muhammad Irshad Ali Ch. S/o Ch. Muhammad Siddique caste
Arain R/o Chak No.420/JB Post Office Gojra, Tehsil Gojra, District
Toba Tek Singh, (presently residing at 128/C Ravi Mohallah Tehsil
Samundri, District Faisalabad, the General Attorney of Tahira
Begum now the defendant No.1.

Plaint: Shops private No.1 to 17 situated on ground floor bearing
Ihata No.3699, Khewat No.255, Khatauni No.259, Ward No.2
according to Fard Jamabandi for the year 1993-94, situated
in Azan (Azlan) Plaza Chak No.12/RB, Tehsil City District,
Faisalabad alongwith utilities, passage, way internal &
external with all rights etc. free from all encumbrance etc.
executed, signed & thumb marked by the defendant No.2 in
favour of the plaintiff in presence of the marginal witnesses
against a consideration of Rs.1,50,00,000/-.

Sd/-
Shainshal Raza Kamal
Civil Judge 1st Class,
Faisalabad

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Advocate-on-Record*

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COPY
Advocate-on-Record*

84

لگری شد و عویٰ.

الكتاب

صاحب سول نج درج

حق ملکی ۱۸۷ باتسال ۲۰۰۹ء

2009 شرکت فناوری اطلاعات
ویژه برای این اثیجاتی از همین طبقه
۳۶۵ پارسیان است

دریل/ادعیان

١٣

مکانیزم این مطالعه را در اینجا برای خارج کردن از محدودیت های مذکور آنرا در نظر می کنیم.

卷之三

دعا بابت مراجعت و تغییرات عقد

06 08/07 is to file a specific Relief Act

..... / /

واعوی بفرض اختیار ساعت پا بارت رسوم کورٹ فیس مبلغ ۱۵۰۰۰/-

۲۷-۱۰-۲۰۰۹ تاریخ داری دعوی

یہ مقدمہ آج واسطے کو حکومت آفیسر کے ذمہ برو جا رہے (لے دینا اور فنا کرنا) سول نئی راجہ احمد فیصل آباد

بخاری ایڈوکیٹ مخانب مدی چوہدری عمر احمد ایڈوکیٹ مخانب مدی

مدعا علیہ پیش ہوا۔ (۱) علم دیا جاتا ہے کہ

Vide consolidated detailed judgment in English of even date in suit titled "Zulfiqar Ahmad Vs Tahira Begum etc" instant suit titled "Tahira Begum Vs Zulfiqar Ahmad Khan" suit for recession of contract under section 35 of Specific Relief Act is hereby disposed of.

مکالمہ	خرچ دعوے	مدی
۵۷	اشام پ دکالت نام	15000
۰۴	اشام پ درخواست	602
	اشام پ دستاویزات	602
	فیس وکیل	602
	خرچ کوہاں	602
	متفرق طلبانہ جات	602
	میرزاں	602

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۲۰۸۶ ثبت دستخط اولار بے میر عدالت (بھاجارکی) :

Fair Staff Officer to
District & Sessions Judge
Established Authorised H.A. 87 of
Bengal - Shahid Orderance 1972
17 JUN 2025

بعدالت جناب اظفر سلطان ابرار سید صاحب سول جج فیصل آباد

نے
جیدوں میاں
سادہ
الیشن ورکریشن ٹھکانے پر
سکھوالی اسکے دو طبقے گھر بنتے تھے اور
جن پر
03-12-14

طاهرہ بیگم عرف طاہرہ شفیق و خضر نور محمد سکنہ میاں ہاؤس میں سٹریٹ راوی محلہ سمندری فیصل آباد
بذریعہ مختار عام ارشاد علی چوہدری ولد چوہدری محمد صدیق۔

مذكرة

三

ز والفقیر احمد خاں ولد مازھا زات راجیت سکنہ یک نمبر 208 رب تخلیل وضع فیصل آباد۔

مذاع عليه

مرعوم عویض برائے 35 نمبر زیرِ فہرست Recession of Contract

۰۶-۰۸-۰۷ مورخہ مورخہ اقرارنامہ ابتدائی مکمل ایڈٹ سپریکیوں کا

حناپ عالی، امدعیہ حسب ذیل عرض رسان ہے۔

۔ 1-A دا خل کیا جا رہا ہے۔ مورخہ 06-03-2012 علی گلم عدالت موئی تابع یونیٹ معم عرضی کرم کے ساتھ۔

کے مدعے کیوں 255 کھنڈ نمبر 259، دارالنامہ 2 بر قبہ 8M-222Sft بطالق جمعندی سال

۱۹۹۳-۱۹۹۴، افعان نمبر 212 رب تخلیل و ضلع فیصل آباد (دکان نمبر 1 تا 16) بیمنش اور دکان

نمبر 17 کروڑ فلور ایلان پلازہ گلی نمبر 11 وکیالاں والی کچھری بازار (فصل آباد) کی مالکیت ہے۔

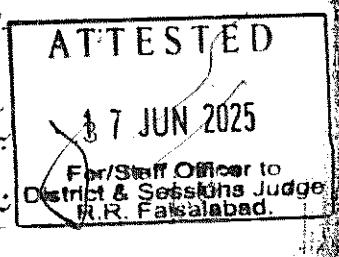
بے کم دعا نالی مدعیہ کے ملکیت پر ایریٹی مذکورہ حسن نمبر 1 کا سودا بیج مبلغ -/- 1,50,00,000 روپے

میں ہر احمد عیہ طے کرتے ہوئے مبلغ -/- 10,00,000 روپے زربیعانہ ادا کیا اور بقایا زرشک مبلغ

روپے کی ادائیگی کیلئے تاریخ 22-12-2007 مقرر کی گئی۔

کے لفظاً رٹری کی ادائیگی مورخ 22-12-2007 کی بنیادی شرط تھی۔ اس تاریخ تک ادائیگی

نہ ہونے کی صورت میں معابدہ منسوج اور زر بیانہ ضبط تصور ہوتا تھا کیونکہ مدعا علیہ کے مطالبات پر قبضہ



حوالے مدعى عليه کر دیا گیا تھا۔ مگر مدعاہلیہ نے قبضہ حاصل کر کے اس کا ناجائز فائدہ اٹھانا شروع کر دیا اور
تاریخ مقررہ تک ادا یگی کرنے کی بجائے لیت ولی کرنا شروع کر دیا اور اس پر اپنی سے مفاد اٹھانا تحریک
کر دیا۔ کیونکہ پر اپنی اندر وہ شہر (گلی نمبر 11 و کیلائیں والی) میں واقع ہے جس میں دوکان نمبر 1 تا 16
پیسٹ اور دوکان نمبر 1 تا 17 گروئنڈ فلور پر واقع ہیں جن سے کرایہ کی صورت ماہوار مبلغ 5,000/-
روپے فی دوکان مدعاہلیہ حاصل کر رہا ہے۔ مدعاہلیہ کی جانب سے بقاہیار رشمن کی ادا یگی نہ ہونے کی بناء
پر مدعيہ اقرار نامہ مورخہ 06-08-2007 کو منسوب کروانے کی حقدار ہے۔

4. یہ کمدعیہ کا مختار مورخہ 06-08-2007 سے مسلسل مدعاہلیہ سے رابطہ کے ہوئے ہے کہ وہ بقاہیار رشمن
ادا کرے گرے 2 سال کے عرصہ کے بعد مدعاہلیہ نے دلچسپ انداز میں با مریعہ وکیل مورخہ 09-10-07
کو ایک نوٹس بھجوایا جس میں ادا یگی بقاہیار رشمن کرنے کی بجائے ایک فرضی اور بے بنیاد کہانی بنا کر کمدعیہ کو
مزید مبلغ 90,00,000 روپے زبانی ادا کرنا تحریر کر دیا جبکہ نوٹس خدا ایں گواہان بھی فرضی ڈالے گئے ہیں

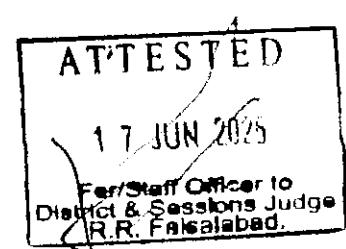
5. یہ کمدعیہ کی جانب سے بقاہیار رشمن کی ادا یگی نہ کرنا بد نیتی کا واضح ثابت ہے کہ وہ ماہوار 5,000/-
روپے فی دوکان مفاد اٹھا رہا ہے جبکہ یہ مدعيہ کا حق ہے۔ اس طرح مدعاہلیہ کی جانب سے معاهدہ کی شرائط کی
مکمل نہ کرنے کی صورت میں معاهدہ منسوب اور زربیعانہ ضبط ہو چکا ہے۔

6. یہ کمدعیہ کی جانب سے رابطہ کیا کہ وہ بقاہیار رشمن مبلغ 1,40,00,000/-
روپے ادا کر کے اب بھی رجڑی اپنے نام کرو سکتا ہے اور مورخہ 07-12-22 سے اٹھائے گئے مفادات
 بصورت کرایہ دوکانات کی ادا یگی بھی مدعيہ کو کرے گزوہ مطالبہ مدعيہ ماننے سے انکاری ہے اسلئے بنائے
ناش پیدا ہوئی۔

7. یہ کمدعیہ دعویٰ مورخہ 22-12-2007 سے اور آخری بار قطعی انکار مدعاہلیہ سے پیدا ہوئی۔

8. یہ کمدعیہ ادھر فیصل آباد میں واقع ہے اور تنازع بھی فیصل آباد میں پیدا ہوا ہے اسلئے عدالت دیوانی فیصل آباد
کو اختیار ساعت حاصل ہے۔

9. یہ کمایت دعویٰ بغرض کورٹ فیس و اختیار ساعت مبلغ 100/- مقرر کی جاتی ہے جو ادا یگی کورٹ فیس
سے متاثر ہے۔



حالات بالا استدعا ہے کہ:

- (i) اگری برائے Recession of Contract زیر دفعہ 35
- (ii) بابت اقرار نامہ مورخہ 06-08-2007 Specific Relief Act
- (iii) ادا یگلی رقم استعمال پر اپریل از 22-12-2007 آئندہ حوالی قبضہ تک مبلغ 5000/- روپے فی دوکان ماہوار۔
- (iv) ادا یگلی تقاضا زشن مبلغ 1,40,00,000 روپے کی صورت میں 14% سود 22-12-2007 سے Value of Money دلوایا جائے۔

iv). سائلہ کو کھیوٹ نمبر 255 کھتوں نمبر 259 دار نمبر 2 بر قبہ 8M-222Sft برابر 212 رج تخلیق خالع برابر 212 رج تخلیق خالع برابر 212 رج تخلیق خالع فیصل آباد (دوکان نمبر 1 تا 16 پیمنٹ اور دوکان نمبر 1 تا 17 گراڈنڈ نلدر اذلان پلازا گلی نمبر 11 وکیاں والی پکھڑی بازار فیصل آباد) کا قبضہ دلوایا جائے۔

اگری بحق مدعاہدہ برخلاف مدعاہلیہ بعد خرچ صادر فرمائی جاوے۔

تصدیق: حلفاء تصدیق کی جاتی ہے کہ
ضمانت دعویٰ 1 تا 6 میرے علم سے اور بقیہ 7 تا 9 میرے یقین سے صحیح درست تسلیم ہیں۔ مقام فیصل آباد مورخ

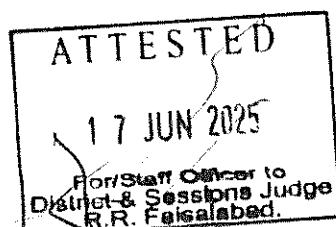
العبد:

طاہرہ نیکم عرف طاہرہ شفیق
بذریعہ مختار عام
ارشاد علی چوہدری

بذریعہ کونسل:

پچھہری عبدالجید ایڈو کیٹ ہائی کورٹ
52- تمیز الدین لا چیبرز فیصل آباد

JUDGE
ALABAD
12-3-12



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In the court of Malik Rehmat Ali,
Civil Judge Class-I Faisalabad.

In Re:

Tahira Begum alias Tahira Shafique. Vs. Zulifqar Ahmad Khan.
Suit No.822-1 dated 23-10-2009

Suit for rescission of contract u/s 35 of Specific Relief Act in
respect of agreement dated 6-8-2007.

WRITTEN STATEMENT

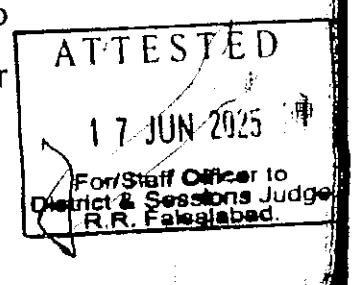
Respectfully Sheweth:

Preliminary objections:

1. That titled suit is bad in law and is the result of misconception because it does not fall under the domain of Sec.35 of the Specific Relief Act. The agreement to sell dated 6-8-2007 is not a contract & is simply a mutual sale agreement because partly payment has been paid & received by the plaintiff on different occasions as Zar-e-Biana Rs.10,00,000/- on 6-8-2007 and as part payment of Rs.90,00,000/- on 16.12.2007, meaning thereby the plaintiff has received Rs.1,00,00,000/- out of total consideration of Rs.1,50,00,000/- and in this way only Rs.50,00,000/- is remained as balanced amount, which has to be paid at the time of execution, completion and registration of sale deed on 22-12-2007. Admittedly, at the time of execution of the mutual sale agreement, the physical possession of the suit property was handed over to the answering defendant. The basic ingredients for

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filings of the suit for rescission of contract under Sec.35 of the Specific Relief Act are missing in the titled suit, which are as under—

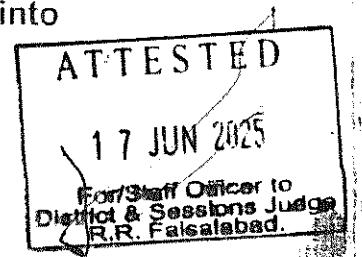
35. When rescission may be adjudged. Any person interested in a contract in writing may sue to have it rescinded, and such rescission may be adjudged by the Court in any of the following cases, namely—

- a. where the contract is voidable or terminable by the plaintiff;
- b. where the contract is unlawful for causes not apparent on its face, and the defendant is more to blame than the plaintiff;
- c. where a decree of specific performance of a contract of sale, or of a contract to take a lease, has been made, and the purchaser or lessee makes default in payment of the purchase money or other sums which the Court has ordered him to pay.

When the purchaser or lessee is in possession of the subject-matter, and the Court finds that such possession is wrongful, the Court may also order him to pay to the vendor or lessor the rents and profits, if any, received by him as possessor.

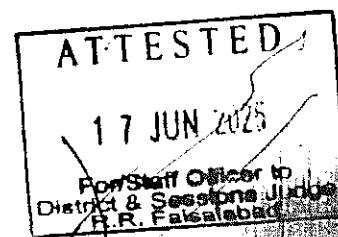
In the same case, the Court, may, by order in the suit in which the decree has been made and not complied with, rescind the contract, either so far as regards the party in default, or altogether as the justice of the case may require.

Even otherwise the titled suit is filed without prior notice to the answering defendant for the rescission of contract dated 6-8-2007, which is mandatory in nature. In such state of affairs, the titled suit is neither maintainable nor to be taken into consideration. Merits dismissal.

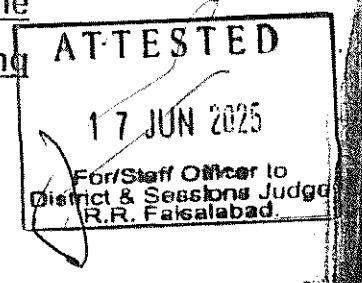


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2. That plaintiff has neither any cause of action nor locus standi & entitlement to file the titled suit against the answering defendant because admittedly it is a counter-blast to the notice of the answering defendant bearing Ref. No.Zulifqar-44 dated 7.10.2009, which was not admittedly responded by the plaintiff but the plaintiff contumaciously & maliciously without notice to the answering defendant stealthily filed the titled suit on 22-10-2009 as mentioned in Para No.4 of the plaint while in fact the answering defendant has filed a civil suit on 1.12.2009 titled Zulifqar Ahmad Khan Vs. Tahira Begum etc." suit for declaration, confirmation of possession through specific performance etc. which is also pending lis in this learned court. . In prevailing situation, the titled suit is liable to be dismissed on this sole ground. Merits dismissal.
3. That titled suit is bad in law because the answering defendant is neither in wrongful possession, defaulter nor committed any fraud & misrepresentation with the plaintiff but this is the plaintiff who is not desirous and ready to perform his part while in fact the answering defendant was/is ever ready to perform his part, as it reveals from legal notice Ref. No.Zulifqar-44 dated 7.10.2009, which is admittedly not responded. Hence the allegations so leveled in the plaint are baseless, unfounded and afterthought. In present circumstances, the titled suit is liable to be dismissed. Merits dismissal.



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4. That plaintiff is estopped to file the titled suit against the answering defendant due to his words, acts, deed & conduct. It is pertinent to mention here that plaintiff is used to make such like frauds with the innocent peoples, as it reveals, that plaintiff has already sold out the suit property vide agreement dated 7-1-2005 to one Mian Muhammad Shabbir son of Muhammad Munshi, caste Arisen Resident of Chak. No.467/GB Tehsil Jaranwala Distt. Faisalabad against a consideration of Rs.1,10,00,000/- and received Rs.40,00,000/- as earnest money and Target date 7.1.2007 was fixed for the completion, execution and registration of the sale deed in favour of Mian Muhammad Shabbir the alleged purchaser/vendee against which, a civil suit No.161-1 dated 7-5-2007 titled "Mian Muhammad Shabbir Vs. Mst. Tahira Begum" suit for possession through specific performance of agreement to sell dated 7-1-2005, which is against the same property/suit property and is duly contested by the defendants, which is admittedly pending lis in the court of Mr. Kashif Qayyum Civil Judge Class-I Faisalabad and was fixed for 22-1-2010 for the submission of written reply to the application filed under O.1, R.10 CPC by the answering defendant. Merits dismissal.
5. That plaintiff has not come with clean hands in this learned court & concealed the actual facts with regard to previous litigation in respect of the same property pending lis in the court of Mr. Kashif Qayyum Civil Judge Class-I Faisalabad and furthermore; the plaintiff concealed this very fact in the mutual sale agreement dated 6.8.2007 with the answering defendant; while in fact, the answering



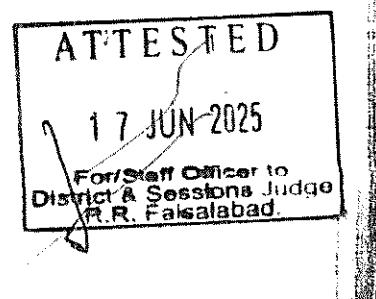
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defendant is a bonafide purchase, with consideration without notice. It is a well settled principle of law that who seeks equity must do equity and should have to come in a court of law with clean hands, in prevailing situation, the plaintiff is not entitled for any relief as prayed for. Merits dismissal.

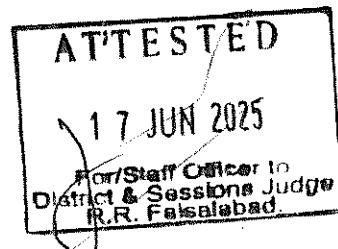
6. That titled suit is not maintainable in its present form. The suit should be for declaration, recovery of possession, cancellation of documents and recovery of means profits etc. as mentioned in Para No.3 of the alleged plaint. Merits dismissal.
7. That plaint of the titled suit is hit by O.7, R.3 CPC. Admittedly the suit property is not an agriculture land but is a commercial constructed plaza. The plaintiff admittedly has not annexed any site plan with scale or without scale with the plaint from which; it can be identified by boundaries or numbers marked by Property Tax Department, the plaint shall specify such boundaries or numbers, which are admittedly missing in the plaint. The plaint is liable to be rejected on this sole ground under O.7, R.11 r/w Sec.151 CPC. Merits rejection.
8. That titled suit is bad in law due to nonjoinder of the parties as mentioned in Para No.3 of the plaint. The quantum of rent as mentioned in this Para is absolutely baseless & unfounded. The answering defendant has not rented out any shop as stated in this Para then what to say of any recovery of mesne profits or to take any benefit from the suit property by the answering defendant. Merits dismissal.

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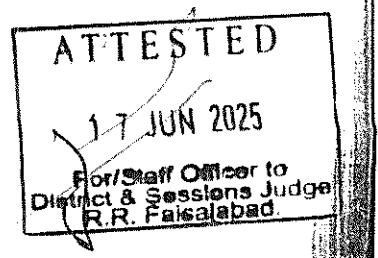
9. That titled suit is bad in law due to multifarious causes of action and falls under the domain of O.2, R.6 CPC. Merits dismissal.
10. That plaintiff contumaciously valued the suit Rs.200/- for the purpose of court fee & jurisdiction while in fact; the plaintiff has filed the titled suit for the rescission of contract dated 6-8-2007, which is for a consideration of Rs.1,50,00,000/- and the plaintiff has also demanded, Rs.1,65,000/- (Rs.5000 x 33 shops) as recovery of mesne profits. Further more the plaintiff has also prayed for the recovery of 14% interest as inflation in respect of balanced amount Rs.1,40,00,000/-. So the plaintiff should have to pay a required court fee of worth Rs.15,000/- being the maximum court fee as required by law and to amend Para No.9 of the plaint, which is necessary & essential for the fixation of forum of appeal, otherwise, the plaint is liable to be rejected under O.7, R.11 r/w Sec.151 CPC. Merits rejection.
11. That suit of the plaintiff is false, baseless, unfounded and afterthought, just to blackmail and usurp the huge amount of the answering defendant Rs.1,00,00,000/- (Rs.10,00,000/- plus Rs.90,00,000/-) which is received by the plaintiff. So the answering defendant is entitled for a special cost of Rs.25,000/- under section 35A CPC.



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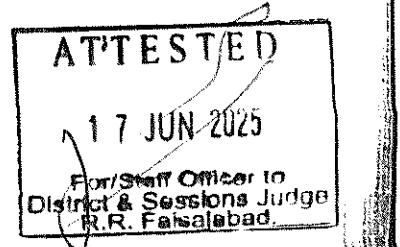
ON FACTS:

- 1) Para No.1 being a matter of facts & record needs no comments but after the mutual sale agreement and payment of Rs.1,00,00,000/- (10 Lacs + 90 Lacs) the answering defendant became lawful owner in possession and the plaintiff has already filed a civil suit for declaration, confirmation of possession etc., which is also pending lis alongwith the titled suit in this learned court. Detailed reply is already given in preliminary objection No.2. (Record annexed)
- 2) Para No.2 as stated is incorrect that after the execution of mutual sale agreement & receipt dated 6-8-2007, the plaintiff also received Rs.90,00,000/- on 16-12-2007. Detailed reply is already given in preliminary objection No.1 of the written statement.
- 3) Para No.3 as stated is incorrect. Detailed reply is already given in preliminary objections No.2, 3, 4, 6 & 8 of the written statement.
- 4) Para No.4 as stated is incorrect and is based on false assertions. The answering defendant has actually paid Rs.10,00,000/- plus Rs.90,00,000/- total Rs.1,00,00,000/-, which is received by the plaintiff through her General Attorney. Detailed reply is already given in preliminary objections of the written statement.



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- 5) Para No.5 is false, hence denied being incorrect. The answering defendant has already filed suit on 1-12-2009 titled "Zulifqar Ahmad Khan Vs. Tahira Begum etc." suit for declaration, confirmation of possession through specific performance etc. in which this learned court has already granted interim injunction dated 1.12.2009 while the plaintiff knowingly & contumaciously not appearing in this suit while both the suits are pending lis in this learned court on even dates. (Record annexed)
- 6) Para No.6 as stated is incorrect. The plaintiff has neither responded the notice dated 7-10-2009 nor contacted the answering defendant as falsely stated in this Para but without notice directly filed the titled suit. Detailed reply is already given in preliminary objections as well as reply on facts. (Record annexed)
- 7) Para No.7 is incorrect. Detailed reply is already given in preliminary objections as well as reply on facts.
- 8) Para No.8 is legal.
- 9) Para No.9 is incorrect. Detailed reply is already given in preliminary objection No.10 of the written statement.



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Under the foregoing circumstances and facts so stated above, the plaint/suit of the plaintiff is liable to be rejected/dismissed with cost under O.7, R.11 r/w Sec.151 CPC and the answering defendant is entitled for a special cost of Rs.25,000/- u/s 35A CPC, just to meet the ends of justice.

Dated:23-1-2010.

VERIFICATION:

Defendant.

Verified on oath at Faisalabad that contents of Para No.1 to 6 & 7 to 9 of the written statement are correct & true to the best of my knowledge and belief.

Zulifqar Ahmad Khan son of Baz Khan, caste Rajput, R/O Chak. No.208/RB Tehsil City Distt. Faisalabad.

Through counsel.

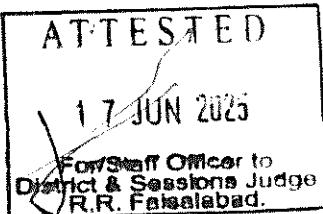
Defendant.


Zulifqar Ahmad Khan.


Ch. Khalil Ahmad Bhatti.
Advocate High Court,
44-Distt. Courts, Faisalabad.

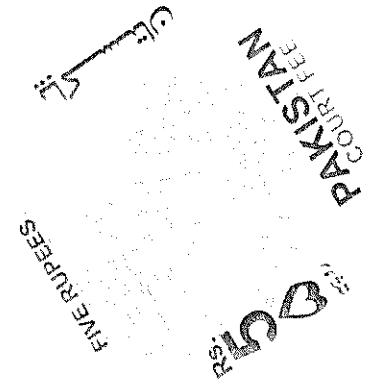
FILE

17 JUN 2023
S-30



97

IN THE SUPREME COURT OF PAKISTAN
[APPELLATE JURISDICTION]



In re,

C.M.A No. _____ -L/2025

IN
CIVIL APPEAL No. _____ -L/2025

Mst. Tahira Begum Alias Tahira Shafique

.....*Appellant*

Zulfiqar Ahmad Khan

VERSUS

.....*Respondent*

APPLICATION UNDER ORDER XX RULE 1 AND ORDER
XXXIII RULE 6 OF SUPREME COURT RULES, 1980

Respectfully Sheweth,

1. That the civil appeal is being filed in this Honorable Court which is not fixed for hearing so far.
2. That that the contents of civil appeal be considered an integral part of this petition.
3. That prima facie that the civil petition is arguable and there is every chance of acceptance of this petition.

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4. That the impugned consolidated judgment and decree dated 29-05-2025 passed by Hon'ble Lahore High Court, Lahore is against law and fact and has been passed without lawful authority, if the operation of impugned judgment and decree dated 29-05-2025 is not suspended, the appellant will suffer irreparable loss.
5. That affidavit is attached herewith.

PRAYER,

In the light of submission made above, it is therefore, respectfully operation the consolidated judgment and decree dated 29-05-2025 passed by Hon'ble Lahore High Court, Lahore be suspend and status quo be ordered to be maintained or any other appropriate order be passed till the final disposal of the civil appeal.

Drawn by:

CHAUDHRY ABDUL MAJEED
Advocate, Supreme Court of Pakistan
52 Tamiz-ud-Din, Law Chambers Faisalabad.
Enrolment No.5230, Ph:0300-8655064.
Email:- advocate_asad@outlook.com

Filed by:


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Advocate-on-Record
Supreme Court of Pakistan
Lahore.
For the Petitioner
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