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IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Mr. Justice Sajjad Ali Shah
 Mr. Justice Munib Akhtar
 Mr. Justice Muhammad Ali Mazhar

Civil Petition No.729-K of 2019

*(Against the judgment dated 22.11.2019
 passed by the High Court of Sindh Circuit
 Court, Hyderabad in II-Appeal No.05/2015)*

Ali Bux.....Petitioner

Versus

Mst. Asghari & others.....Respondents

For Petitioner:

Mr. Khadim Hussain Soomro, ASC
 alongwith petitioner Ali Bux and his
 attorney Khan Muhammad

For Respondent No.7:

Mr. Farhad Ali Abro, ASC alongwith
 Jahangir son of Rehmatullah,
 Muhammad Yamin son of Abdul
 Ghafoor

For Respondent No.8:

In person

Date of hearing:

15.7.2022

ORDER

Sajjad Ali Shah, J.- The petitioner has purchased 06-00 Acres 13 Ghuntas of land from one Rehmatullah, who claimed to have inherited from his father. Subsequently it transpired that Rehmatullah and his real brother Abdul Sattar had deprived their sisters from their share and had equally distributed the land left by their late father. Consequently sisters filed a suit, seeking cancellation of the sale deed in favour of the petitioner who had purchased 06-00 Acres 13 Ghuntas from Rehmatullah. The Court had concurrently held that since Rehmatullah had deprived his sisters from their share, therefore, the sale deed executed by Rehmatullah in favour of the petitioner was cancelled. The only grievance, the petitioner has raised before us is that atleast he was entitled to the share which has fallen in favour of Rehmatullah and it is not disputed that Rehmatullah after proper

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distribution of shares amongst legal heirs inherited 02-00 Acres 21 Ghuntas of land.

2. The respondents were summoned and they have shown willingness to give 02-00 Acres and 21 Ghuntas of land, but they say that since it has been partitioned by the trial Court, therefore, the land which has come in share of the legal heirs of Rehmatullah, does not touch the boundaries of the petitioner's land and consequently they offered to pay the price of the land, however, the petitioner is not ready and willing to accept the price.

3. Since the petitioner is entitled to the share of land which has fallen in favour of Rehmatullah and since the land was partitioned at the direction of the trial Court, therefore, we hold the petitioner entitled to the share of Rehmatullah to the extent of 02-00 Acres 21 Ghuntas. The petitioner restricts his claim only to the extent of Rehmatullah and would not claim the other land.

4. In the circumstances, we direct the trial Court to re-partition the land in a manner that the shares of legal heirs of Rehmatullah to the extent of 02-00 Acres 21 Ghuntas of land is relocated adjacent to the land of the petitioner and be given to them accordingly. The title documents be accordingly revived and modified only to the extent of 02-00 Acres 21 Ghuntas, the share of Rehmatullah. The exercise be completed within a period of forty five [45] days. The petition is converted into appeal and is allowed in above terms.

Qasim Zahid
JUDGE

R. J. Zahid
JUDGE

A. J. Zahid
JUDGE

Karachi.
Dated: 15.7.2022

Zahid*