

**SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

Justice Shahid Waheed  
Justice Musarrat Hilali

**Civil Appeals No.893 & 894/2024 & CMA No.7393/2024**

Against the judgment/order dated 28.03.2024 passed by the Peshawar High Court, Mingora Bench, (Dar-ul-Qaza), Swat in CR No.190-M/2013

***Fazal Hanan and another***  
***Shah Bakht Nasar and another***

(in CA 893/2024)

(in CA 894/2024)

...Appellants

***Versus***

***Mst. Bibi Sahar Mina (decd.) thr. L.Rs and others***

(in CA 893/2024)

***Fazal Hanan and others***

(in CA 894/2024)

...Respondents

For the Appellants : Mr. Muhammad Izzat Khan, ASC  
Mr. Mumtaz Ahmed, ASC

For the Respondent : Mr. Sher Aman, ASC  
Syed Rifaqat Hussain Shah, AOR

Date of Hearing : 13<sup>th</sup> May, 2025

**ORDER**

**Shahid Waheed, J.-**

**CA No. 893/2024:**

This appeal is by the plaintiffs and arises from their suit by which they sought declaration of title regarding land measuring 17 *kanals* situated in *Mauza Kalakalay*. The appellants claimed that they purchased this land through a sale deed. Since the sale document was not produced during the trial, their claim was disbelieved by the Trial Court and suit was dismissed. The findings returned by the Trial Court were maintained by the First Appellate Court and then by the High Court in its revisional jurisdiction.

2. The solitary question that falls for our determination is whether the appellants had proved their claim that they had purchased the land. We examined the evidence and found that the alleged sale deed showing the ownership of the appellant was not produced. This omission was fatal. We sought an explanation from the appellants' counsel for not producing the sale deed, to which



he replied that it was lost. We then asked whether any effort was made to lead secondary evidence to prove the sale deed. He answered in negative. Given the circumstances, we hold the view that since the appellants had failed to discharge the burden of proving their claim, they were not entitled to the decree as prayed for in the plaint. Resultantly, we do not find any infirmity in the findings returned by the Courts below.

3. In the result, this appeal fails and is accordingly dismissed

**CA No. 894/2024:**

4. The appellants' counsel requests permission to withdraw this appeal so as to avail other remedy, if any, available to the appellants under the law. This request is granted. Accordingly, this appeal is dismissed as withdrawn.

Islamabad, the  
13<sup>th</sup> May, 2025  
Syed Farhan Ali

  
Judge  
  
Judge