

JUDGMENT SHEET.
ISLAMABAD HIGH COURT, ISLAMABAD,
JUDICIAL DEPARTMENT.

Civil Revision No.18/2019.

Rajiz Khaliq

Vs.

Mst. Fatima Khan etc.

Petitioner by:

Ch. Abdul Rehman Hur Bajwa
Advocate.

Respondents No.2 to 6 & 8 by:

Ms. Sana Javed, Advocate.

Respondent No.10 by:

Mr. Shahid Murtaza Bukhari,
Advocate.

Date of Decision:

02.03.2020.

MOHSIN AKHTAR KAYANI, J:- Through this civil revision petition, the petitioner has assailed the order dated 26.10.2018, passed by learned Civil Judge 1st Class, Islamabad-West, whereby conceding statement recorded by respondents No.2 & 4 in favour of the petitioner for acknowledgment of claim has been discarded.

2. Learned counsel for the petitioner contends that respondents No.2 to 6 & 8 are legal heirs of respondent No.1, who entered into an agreement to sell with the petitioner on 07.04.2010 for sale of House No.225, Street No.21, Sector E-7, Islamabad against total sale consideration of Rs.7,00,00,000/-, however, due to death of respondent No.1 the legal heirs came into picture, who separately entered into agreement with the petitioner but later on they refused to acknowledged rights of the petitioner and suit for specific performance was filed by the petitioner; that the respondents/legal heirs separately received their share in the suit property and recorded their conceding statements before the Court on 16.09.2015, 10.10.2015, 25.05.2017, 28.07.2017 and 13.12.2017 but later on they resiled from their statements and filed application and learned Trial Court through impugned order dated 26.10.2018 discarded the statements and allowed to proceed on the basis of the affidavits submitted by the respondents as such the impugned order is illegal.

3. Conversely, learned counsel for respondents No.2 to 6 & 8 contends that the said respondents are not aware of Urdu language and they have been induced to record their statements through misrepresentation and fraud with commitment that payment will be made to them in the office of CDA but the petitioner did not pay single penny, where-after the respondents/legal heirs filed application to discard the statements recorded by them as the same were obtained through misrepresentation and fraud; that impugned order has rightly been passed and this question can only be resolved after recording of evidence.

4. I have heard learned counsel for the parties and gone through the record.

5. Perusal of the record reveals that the petitioner is mainly aggrieved with order dated 26.10.2018, passed by learned Civil Judge, through which conceding statement of respondents No.2 & 4 got recorded on 16.09.2015 have been discarded mainly on the ground that suit for specific performance is pending and the affidavits submitted as Exh.P.D2 is required to be proved under the law, even conceding statement recorded by the respondents on the margin of order sheet require determination.

6. The above referred position stated in the impugned order, if seen in the light of sensitivity of the claim, it appears that the matter can only be resolved after recording of evidence notwithstanding with the observations passed by Trial Court as the respondents/legal heirs denied receiving the payment and the petitioner argued the case on the basis of conceding statements of the respondents with the contention that share in the sale consideration was paid but no documentary proof in shape of cheque, bank statement has been placed on record, therefore, impugned order prima facie seems correct. The entire case revolves around sale of house of late respondent No.1/Mst. Fatima Khan and as such the respondents being legal heirs of the deceased gave their conceding statement before Trial Court but they have denied receiving of any payment or part of sale consideration, in such scenario the claim is yet to be determined and effect of these conceding statements can only be resolved after recording of evidence when the witnesses will appear in witness box.

C.R No. 18/2019.

7. In view of above discussion, the impugned order has been passed in accordance with law and no illegality has been observed. The instant civil revision petition bears no merits, therefore, the same stands **dismissed**. Learned Trial Court seized with the civil suit is directed to conclude the same on or before 30.06.2020 under intimation to this Court.

(MOHSIN AKHTAR KAYANI)
JUDGE

R. Anjam