

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. NO.80/2021

Ali Akhtar Khan Vs Mirza Ikram ul Haq & others

Serial No. of order/ proceeding	Date of order/ proceedings	Order with signatures of judge, and that of parties or counsel, where necessary.
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13.01.2021 Mr. Ghulam Muhammad Khan, Advocate for petitioner.

Learned counsel for the petitioner inter alia, contends that the order dated 30.11.2020 has been passed against the facts of the case; that the application of the petitioner filed under Article 163 of the Qanun-e-Shahadat Order, 1984 was dismissed; that the amendment under Order VI Rule 17 CPC can be sought even at appellate stage, but the learned Trial Court failed to appreciate the contention of the petitioner and passed the impugned order without appreciating the law, therefore, the same is liable to be set aside.

2. Perusal of the record reveals that the petitioner filed suit for specific performance of verbal agreements dated 17.07.2011 and 31.05.2017, mandatory & permanent injunction, which was contested by respondents No.1 & 2 by filing their written statements. During the proceedings of the suit, the petitioner filed an application under Article 163 of the Qanun-e-Shahadat Order, 1984 for taking special oath which was contested by the respondents. However, the same was withdrawn by the petitioner vide order dated 11.02.2020. Thereafter, the petitioner again filed an application seeking amendments in the plaint which was dismissed by the learned Trial Court vide impugned order dated 30.11.2020.

3. Record further shows that the petitioner allegedly entered into oral agreement with the respondents. As per the petitioner, he requested respondent No.1 to settle the issue in February, 2018 and respondent No.1 promised to pay back the sale consideration of the suit plot in instalments, whereas the petitioner filed the above said suit on 05.03.2018, but he did not mention the above said

fact of receiving the amount of Rs. 1,50,000/- by respondent No.1 in his plaint and also failed to mention with regard to any audio recording of the same. Application of the petitioner for grant of temporary injunction was dismissed on 29.06.2019, whereafter, the petitioner failed to produce any evidence and prolonging the suit one way or the other. The learned Trial Court after examining the material available on record has rightly dismissed the application of petitioner through the impugned order.

4. Learned counsel for the petitioner has not been able to point out any illegality or irregularity committed by the learned Trial Court while passing the impugned order dated 30.11.2020.

5. For the foregoing reasons, instant petition having no force is hereby dismissed in limine.

(GHULAM AZAM QAMBRANI)
JUDGE

S.Akhtar