

# ISLAMABAD HIGH COURT, ISLAMABAD

NO. \_\_\_\_\_ IHC/Jude. Deptt.

(REVISED FORM OF BLUE SLIP)

Case No. CR 175 — 2013

Surfraz Masih

Titled

Vs

Munzeer Masih etc.

(a) Judgment approved for reporting

☒ Yes / ☐ No

(b) Judgment any comment upon the Conduct of the  
Judicial Officer for Quality of the impugned  
judgment is Desired to be made.

Yes / ☒ No

(In case the answer is the affirmative Separate  
confidential note may be Sent to the Registrar  
drawing his Attention to the particular aspect).

Initial of the Judge.

## NOTE

1. If the slip is used, the Reader must attach on top of first page of the judgment.
2. Reader may ask the Judge writing the judgment whether the judgment is to be approved for Reporting of any comment is to be made about the Judicial Officer/ quality of judgment.
3. This slip is only to be used when some action is to be taken.

FORM NO: HCJD/C

**ORDER SHEET**

**IN THE ISLAMABAD HIGH COURT,  
ISLAMABAD  
JUDICIAL DEPARTMENT**

**Civil Revision No.175 of 2013**

Sarfraz Masih

**Vs.**

Manzoor Masih etc


S.No. of order/ proceedings	Date of Order/ Proceedings	Order with signature of judge and that of parties or counsel where necessary.
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20.06.2013

Hafiz Liaquat Manzoor Kamboh, Advocate for the  
petitioner.

The instant civil revision is directed  
against the judgment and decree dated  
30.05.2012 passed by the learned Civil Judge  
Ist Class, Islamabad; whereby suit filed by the  
petitioner was dismissed and against judgment  
and decree dated 26.03.2013; whereby the  
learned District Judge, Islamabad also dismissed  
the appeal filed by the petitioner.

2. Facts of the case out of which this  
civil revision has arisen are that the petitioner  
filed a suit for declaration and permanent

 injunction against the respondents, which was

vehemently resisted by respondent No.2. In order to resolve the controversy, the learned trial court framed the following issues:-

**ISSUES**

1. Whether plaintiff is sole owner in possession of the suit house and as such entitled for a decree as prayed for?OPP.
2. Whether the suit is hit by Order 7 Rule 11 C.P.C.?OPD.
3. Whether the suit is false and vexatious and as such defendants are entitled to recover special costs?OPD.
4. Relief.

3. After framing of issues and recording of evidence, the suit was dismissed by the learned Civil Judge Ist, Islamabad on 30.05.2013. Feeling aggrieved, the petitioner preferred an appeal which too was dismissed by the learned District Judge, Islamabad vide judgment and decree dated 26.02.2013, hence this civil revision.

4. Learned counsel for the petitioner contended with full force that while deciding issue No.1 in negative the learned trial Court has

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erred in law and has based its findings on surmises and conjectures. Both the courts below have ignored the un-rebutted verbal as well as documentary evidence of the petitioner; that the impugned judgments and decrees are result of misreading and non-reading of evidence; that respondent No.1 never remained in possession of the suit plot and the construction was made by the petitioner himself by spending huge amount; that the impugned judgments and decrees are against the law, facts and cannot sustain in law; that the learned courts below did not apply their judicial minds and that the learned courts below committed gross abnormality while dismissing the suit and appeal as well, therefore, the impugned judgments and decrees are liable to be set aside.

5. I have heard the learned counsel for the petitioner and studied the material made available with care.

6. It is an admitted position that allotment letter regarding the suit plot has not been issued so far. However, Membership Form, copy of which is available on record goes to reveal that it was issued to the present petitioner as well as respondent No.1 Manzoor

*DM*

Masih. In para No.1 of the plaint, the petitioner

categorically mentioned that he was owner in possession of the suit plot, which is against the factual position. Respondent No.1 did not contest the suit as he was proceeded against exparte, nevertheless respondent No.2/C.D.A vehemently opposed the suit. It has come in the evidence of respondent No.2 that plot could be transfer after fulfilling the codal formalities. Learned counsel for the petitioner failed to negate this legal position. It is not the case of the petitioner that he had fulfilled all the requisite formalities for transfer of plot. Under the law on the basis of mere submission of Iqrarnama ownership cannot be transferred. The learned appellate Court rightly come to the conclusion that the petitioner failed to prove the agreement in terms of Article 79 of the Qanun-e-Shahadat Order, 1984. The petitioner had failed to prove issue No.1 by producing cogent, sound and strong evidence. There appears no misreading or non reading of evidence. There is also no illegality or infirmity in the impugned judgments and decrees, which are otherwise based on plausible and sound reasons.

7. Jurisdiction of High Court under section 115 CPC is slender and concurrent findings of fact cannot be disturbed in revisional

jurisdiction unless courts below while recording findings of fact had either misread the evidence or had ignored any material piece of evidence or those were perverse and reflected some jurisdictional error. All these ingredients are totally missing in this case.

8. For what has been discussed above, this civil revision is devoid of merits, so the same is **dismissed** in limine.

9. Before parting with this order, it would be quite germane to observe that the learned Civil Judge Ist Class, Islamabad (Mr. Rasool Bakhsh Mirjat) while rendering the impugned judgment dated 30.05.2012 has not incorporated the necessary certificate at the end of judgment and instead he has mentioned "**Given under my hand and the seal of the Court on this 30<sup>th</sup> day of May, 2012**" which is contrary to settled practice.

10. It is further observed that decree sheet prepared in pursuance of judgment dated 30.05.2012 has not been drafted properly in accordance with law. In the plaint value of the suit for the purpose of Court fee and jurisdiction was fixed at Rs.800/-, but the same has not been mentioned in the decree sheet and the relevant portion has been kept blank. Likewise, a

necessary paragraph i.e. ("claim for"), wherein prayer clause of the plaint is re-produced is totally missing in the decree sheet. Such slackness on the part of the Court below requires consideration. Hence, for the future purposes, it is directed that the decree sheets be prepared in accordance with law and C.P.C. and at the end of the judgments/orders the following certificate must be given.

**"Certified that this (judgment/order) consist of ( ) pages and each page has been dictated, readover, corrected and signed by me."**

Copy of this order be sent to the Registrar of this Court with the direction to circulate the above observations/directions amongst all the Judges of both the Districts of Islamabad, after obtaining necessary permission from the Hon'ble Chief Justice.

**Noor-ul-Haq N. Qureshi**  
Judge

*W. Sabir*  
Sabir

*Approved for reporting*

*Blue slip added.*