JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

R.F.A. No.70 of 2020

Rana Masood Iqbal

Versus

Muhammad Ayub Iqbal Rana

Date of Hearing	:	10.03.2022
Appellant by	:	Mr. Asif Irfan and Shahid Munir, Advocates.
Respondent by	:	In person.

ARBAB MUHAMMAD TAHIR, J. Through the instant Regular First Appeal, the appellant/defendant, Rana Masood Iqbal, has called in question the *ex-parte* judgment and decree dated 07.01.2020 passed by the learned Senior Civil Judge, Islamabad, whereby the suit for recovery of Rs.2,59,00,000/- along with prevailing interest instituted by the respondent/plaintiff was decreed as prayed for.

Factual Background:-

2. Tersely the facts leading to the filing of the present appeal are that the contesting parties agreed to enter into an oral agreement to the effect the appellant/defendant proposed that if the respondent/plaintiff agrees to invest an amount of Rs.60,00,000/- in the business of transport, then the appellant/defendant would pay an amount of Rs.4,00,000/- per month as an operational profit to the respondent/plaintiff. While posing confidence onto the appellant/defendant, the respondent/plaintiff paid an amount of Rs.58,00,000/- in the presence of witnesses. Subsequently, in furtherance of the said

oral agreement, the appellant/defendant started paying the operational profits which sums up to Rs.7,00,000/- in a period of ten months whereas the actual amount due during the said period, as agreed between the parties, was Rs.40,00,000/-. After sometime, the respondent/plaintiff came to know that the owner of the transport/busses was someone else and upon gaining such information, the relationship between the parties, being relatives, turned sour. The appellant/defendant stopped the payment of the profit to the respondent/plaintiff and upon demand, he (the appellant/defendant) made lame excuses on one pretext or the other which caused the respondent/plaintiff to institute the aforementioned suit. The learned trial Court after hearing the respondent/plaintiff and going through the record decreed the suit against the appellant/defendant vide judgment and decree dated 07.01.2020. Hence this appeal.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE APPELLANT/DEFENDANT:-

3. Mr. Asif Irfan, Advocate, learned counsel for the appellant/defendant submitted that the suit instituted by the respondent/plaintiff was frivolous and vexatious; that the appellant/defendant never received any amount from the respondent; that the suit instituted by the respondent/plaintiff was in fact a counterblast of the dispute between the parties inter-se; that the respondent/plaintiff had kept on filing different applications against the appellant/defendant due to a family grudge; that the appellant/defendant never did any business regarding transport; that the respondent/plaintiff is an habitual litigant inasmuch as in the 2013, he filed a suit for recovery against his own father; that indeed the appellant/defendant personally appeared as DW-1 before the learned trial Court and got recorded his statement; that the examination in chief of the

appellant/defendant was conducted on 23.07.2019, but the respondent, for the reasons best known to him, did not cross-examine the appellant/defendant despite his being present in the Court on 30.09.2019; that subsequent thereto, the appellant/defendant fell ill due to cardiovascular and backbone diseases; that despite the appellant/defendant's indisposition, he kept on appearing before the learned trial Court.

4. It was further contended by the learned counsel for the appellant/defendant that the impugned judgment and decree is based on mis-appreciation of the evidence available on the record; that the learned trial Court did not consider the evidence produced by the appellant/defendant before it; that the respondent/plaintiff did not comply with the directions of the learned trial Court by filing the list of witnesses within a period of seven days; that during the cross-examination, the respondent/plaintiff (PW-1) admitted the witnesses produced by him to be his "employees/servants", but the learned trial Court did not take this important aspect of the matter into account; that the bank statements produced by the respondent/plaintiff did not disclose any transaction/transfer of the amount to the appellant/defendant; that the appellant/defendant was deliberately not cross-examined by the respondent; that the learned trial Court in a hasty and cursory manner decreed the respondent's suit without affording the appellant/defendant a full opportunity to substantiate his stance. Learned counsel for the appellant/defendant prayed for the instant appeal to be allowed in terms of the relief prayed therein.

SUBMISSIONS OF THE RESPONDENT:

5. On the other hand, the respondent/plaintiff appeared in person and supported the impugned judgment and decree dated 07.01.2020.

6. Heard the learned counsel for the appellant/defendant as well as the respondent/plaintiff in person and perused the available record.

CASE HISTORY:

7. Perusal of the record shows that the respondent/plaintiff is the brother-in-law of the appellant/defendant. The latter entered into an oral agreement with the former in order to run a business of transport. Out of the said business, the profit mutually agreed between the parties was Rs.4,00,000/- per month which was to be paid by the appellant/defendant to the respondent/plaintiff. As per the averments of the suit, the respondent/plaintiff allegedly paid an amount of Rs.58,00,000/- to the appellant/defendant for the purposes of the said business. Subsequently, as per the suit's pleadings, the appellant/defendant kept paying monthly profit to the respondent/plaintiff and as such a total profit of Rs.7,00,000/- was paid by the appellant/defendant within a period of ten months.

8. The respondent/defendant was summoned by learned trial Court, who contested the suit by filing his written statement. Contentious points of the parties were reduced into issues and the parties were allowed to lead their evidence. Out of the divergent pleadings of the parties, the learned trial Court framed the following issues on 27.10.2018:-

1. *Whether the plaintiff is entitled to get decree for recovery of amount of Rs.2,59,00,000/- along with prevailing rate of interest as prayed for? OPP*
2. *Whether the plaintiff has neither any cause of action nor any locus standi to file the present suit. Hence same is liable to be rejected? OPD*
3. *Whether the plaintiff is estopped by his words and conduct to file the present suit.OPD*
4. *Whether the suit of the plaintiff if (sic) time barred? OPD*
5. *Relief."*

9. On 23.07.2019, the appellant/defendant appeared as DW-1 and on the same day, his statement was recorded as DW-1. Thereafter, on 19.07.2019, the appellant/defendant absented himself from the learned trial Court and accordingly the matter was posted for 24.09.2019 for documentary evidence of the appellant/defendant and his cross-examination. On 24.09.2019, again the appellant/defendant did not appear before the learned trial Court and the case was adjourned to 30.09.2019 with a last opportunity to the appellant/defendant. On 30.09.2019, the appellant/defendant did appear before the learned trial Court along with his counsel and according to the said order, the learned counsel for the appellant/defendant closed his oral and documentary evidence. The matter was then adjourned to 26.10.2019 with last opportunity to the respondent/plaintiff to cross-examine the appellant/defendant. On 26.10.2019, the case got adjourned to 11.11.2019 due to a general strike. On 11.11.2019, clerks on behalf of the learned counsel for the parties appeared and the matter was adjourned to 20.11.2019 for cross-examination on the appellant/defendant. The said order shows that an absolute last opportunity was given to the respondent/plaintiff for cross-examination on the appellant/defendant. On 20.11.2019, again cross-examination on the appellant/defendant could not take place due to the absence of the appellant/defendant as well as the plaintiff/respondent's counsel and the matter was adjourned to 03.12.2019. On 03.12.2019, the respondent/plaintiff appeared in person whereas none appeared on behalf of the appellant/defendant. The said order also makes mention the issuance of notice under Order XVII Rule 3 C.P.C. to the appellant/defendant on 11.07.2019. However, in the interest of justice, final opportunity was given to the

DW/appellant/defendant along with a notice under Order XVII, Rule 3 C.P.C.

10. According to the order sheet of the learned Court below, several opportunities were given to the appellant/defendant so that he could be cross-examined by the respondent/plaintiff, but he did not turn up. Finally, on 16.12.2019, the appellant/defendant's right of defence was struck off by the learned Court below by invoking the penal provisions of Order XVII, Rule 3 of the Code of Civil Procedure, 1908. Order XVII, Rule 3 C.P.C. reads thus:-

> ***"****ORDER XVII ADJOURNMENTS 1.-****(1)*** *The Court may, if sufficient cause is shown at any stage of the suit grant time to the parties or to any of them, and may from time to time adjourn the hearing of the suit. (2) In every such case the Court shall fix a day for the further hearing of the suit, and may make such order as it thinks fit with respect to the costs occasioned by the adjournment: Provided that, when the hearing of evidence has once begun, the hearing of the suit shall be continued from day to day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the hearing beyond the following day to be necessary for reasons to be recorded.*
> *2. Where, on any day to which the hearing of the suit is adjourned, the parties or any of them fail to appear, the Court may proceed to dispose of the suit in one of the modes directed in that behalf by Order IX or make such other order as it thinks fit.*
> ***3. Where any party to a suit to whom time has been granted fails to produce his evidence, or to cause the attendance of his witnesses, or to perform any other act necessary to the further progress of the suit, for which time has been allowed, the Court may, notwithstanding each default, proceed to decide the suit forthwith.***
> *[4. Where a suit or proceeding is set down for a day which is a holiday, the parties thereto shall appear in the Court on the day next following that day, or, when two or more successive days are holidays, on the day next following the last of such successive days, and the Court may then either proceed with the suit on such day, or fix some other day thereafter.]*
> *[5. When on day the presiding officer of the Court is absent by reason of illness or any other cause, the parties to the suit or proceeding set down for that day(notwithstanding the knowledge that the presiding officer would be absent) shall*

appear in the Court in the |Courthouse on that day and the ministerial officer of the Court authorized in that behalf shall hand over to the parties slips of paper specifying the other date fixed for proceeding with the suit or proceeding and signed by him].”

ALLEGED ORAL AGREEMENT:-

11. There is nothing on the record which would show that an agreement between the parties was ever executed. The respondent/plaintiff appeared as PW-1 and in his examination in chief had deposed that on 02.01.2011, the appellant/defendant took an amount of Rs.58,00,00/- from him in the presence of the witnesses. In the cross-examination, the said PW/respondent/ plaintiff had categorically admitted that he paid the said amount to the appellant/defendant, but there is nothing in writing. The relevant excerpt of his deposition is as under-.

":م ین نے پیسے اکٹھے دیئے تھے۔ اس بابت کوئی لکھت پڑھت نہ ہے۔"

12. Now, the astonishing factor of the matter is that the respondent, who claims himself to be a Ph.D. Scholar and having done an MBA degree, while allegedly paying such a huge amount of Rs.58,00,000/- to the appellant/defendant did not bother to reduce the alleged oral agreement into writing. Had he agreed to the terms of the alleged transaction and executed an agreement in writing with the appellant/defendant, he could have been in a good possible position to have substantiated his version regarding the payment of the said amount to the appellant/defendant. The bank statements produced by the respondent/plaintiff before the learned Court below show the withdrawal of the amounts from the respondent’s bank account. These bank statements by no stretch of imagination can be termed as an agreement or payment to the appellant/defendant. These bank statements show the withdrawal of certain amounts from the appellant/defendant’s bank account,

but to whom these amounts/payments were made, is a question mark? Furthermore, in this day and age, the non-execution of an agreement for a transaction and that too for a huge amount, bespeaks the negligence on the part of the respondent. If at all, it is presumed that the respondent/plaintiff paid an amount of Rs.58,00,000/- to the appellant/defendant, he could have produced any sort of evidence establishing such a transaction. The mere filing of the bank statements did not absolve the respondent/plaintiff from discharging his part of obligation by producing confidence inspiring evidence. It is well settled proposition of law that the Courts are not bound to take into account oral agreements. Although an unwritten agreement is recognized by the law, but the same is required to be proved by unimpeachable and credible evidence. In the event, a party asserts his/her rights on the basis of an oral agreement, then he/she would be under a bounden duty to produce unimpeachable, cogent, reliable and confidence inspiring evidence to prove his/her claim. No doubt, the respondent/plaintiff heavily relied upon the alleged oral agreement and under the maxim of ***Secundum allegata et probata*** (he who alleges a fact must prove it), it was the respondent/plaintiff, who was required to satisfy the Court about the existence of the alleged oral agreement relied upon by him.

13. It is an equally settled principle of law that it is the duty and obligation of the beneficiary of a transaction or a document to prove the same. The respondent/plaintiff was obliged, being the beneficiary of the transaction, to prove the alleged payment of the amount to the appellant/defendant. Such is not only settled law, but has been consistently held by the august Supreme Court of Pakistan and followed by all the Courts in the country. The august Supreme Court in paragraph-8 of the judgment in case titled

Amjad Ikram v. Mst Asia Kousar and 2 others (2015 SCMR 1) has held as follows:

> *"**It is an equally settled principle of law that it is the duty and obligation of the beneficiary of a transaction or a document to prove the same.** Reference in this behalf may be made from the judgments of this Court, reported as Akhtar Ali v. The University of the Punjab (1979 SCMR 549), Haji Muhammad Khan and others v. Islamic Republic of Pakistan and 2 others (1992 SCMR 2439) and Khan Muhammad v. Muhammad Din through L.Rs. (2010 SCMR 1351)."*
> **Emphasis laid:**

14. Moreover, in the plaint, the date, time and place of the alleged oral agreement are not mentioned. All that is mentioned in the plaint is *"the year of 2011"* and no specific time, place and date is mentioned in the plaint as to at what time, at which place and on which date, the alleged transaction took place. However, in the examination in chief, PW-1/respondent/plaintiff had mentioned that on 02.01.2011, the appellant/defendant received an amount of Rs.58,00,000/-. It is my view that the failure to mention the date, time and place of the alleged oral agreement in the plaint is not just creating further doubt in the version of the respondent/plaintiff, but mentioning the date and time in the plaint was also necessary to obtain the relief on the basis of alleged oral agreement. Reliance is placed on the cases titled **Muhammad Waryam Vs. Rehmat Ali (2007 MLD 17), Sultan Khan v. Saddar-ud-Din (2018 CLC Note 37) and Bashir Ahmad and 21 others v. Shah Muhammad and another (2010 CLC 734).**

15. As discussed above, it is by now a well settled principle of law that it is the duty and obligation of the beneficiary of a transaction or a document to prove the same. Reference in this regard may be made to the law laid down in the cases of **Akhtar Ali v. The University of the Punjab (1979 SCMR 549), Haji**

Muhammad Khan and others v. Islamic Republic of Pakistan and 2 others (1992 SCMR 2439) and Khan Muhammad v. Muhammad Din through L.Rs. (2010 SCMR 1351). Law to the said effect has also been laid down in the cases of Muhammad Nawaz through L.Rs. v. Haji Muhammad Baran Khan through L.Rs. and others (2013 SCMR 1300), Tariq Javaid and 11 others v. Muhammad Sattar (2011 MLD 832), Karamdad v. Manzoor Ahmad and 2 others (2015 CLC 157) and Noor Muhammad and others v. Mst. Rabia Bibi and others (2019 MLD 1286).

DEFECTS IN THE IMPUGNED JUDGMENT AND DECREE:-

16. As per the record, the alleged transaction took place in the year 2011 whereas the suit was instituted on 23.06.2015, meaning thereby it was a time barred suit. The learned trial Court framed an issue with respect to the limitation and placed its onus upon the appellant/defendant. According to Section 3 of the Limitation Act, 1908, the Court of plenary/competent jurisdiction is under a legal obligation to apply its mind as to the question of limitation and it is not mandatory for the defence to take a specific plea as regards the limitation. The Court on its own has to look into the question of the limitation and if it finds the suit to be time barred, keeping in view the facts and circumstance of the case, it could decide the issue of limitation even if it is not raised by the defence. Section 3 has been couched in mandatory form which empowers the court before whom the *lis* is brought to dismiss the same if it is found having not been brought before the Court within the time prescribed by the first schedule of limitation Act, 1908. Section 3 provides that every suit instituted, appeal preferred and application made after the period of limitation prescribed therefor shall be dismissed although limitation has not been setup as a defence. It appears to proceed on the assumption that it is in the

public interest that actions must be brought within the statutory time limit; and the words "although limitation has not been setup as a defence" provides a clear indication of the legislative intent that it is not left to the parties to take or not take the objection, that the suit, appeal or application is outside the limit fixed by the law. It would be advantageous to reproduce Section 3 *ibid* which reads thus:-

> *3. Dismissal of suit, etc. instituted, etc. after period of limitation.---Subject to the provisions contained in sections 4 to 25 (inclusive), every suit instituted, appeal preferred, and application made after the period of limitation prescribed therefor by the First Schedule shall be dismissed although limitation has not been set up as a defence.*

17. Furthermore, the learned trial Court struck off the appellant /defendant's defence by invoking the provisions of Order XVII, Rule 3 C.P.C. and decreed the suit in favour of the respondent/plaintiff without taking into account the written statement filed by the appellant/defendant. It is my view that the Court is duty bound to take into consideration all the pro and contra evidence and then proceed to decide the matter on its merits rather than technicalities. In the present case, the learned trial Court in a whimsical manner proceeded to decide the suit on technicalities in the respondent/plaintiff's favour without taking into account the written statement filed by the appellant/defendant.

ISSUES TO BE DISCUSSED SEPARATELY:-

18. The learned trial Court while relying upon the evidence produced by the respondent/plaintiff decided issue No.1 in favour of the respondent/plaintiff and decreed the suit against the appellant/ defendant. The learned Court below while deciding issues No.2 to 4, based its findings on the decision of issue No.1 and declared issues No.2 to 4 to have become infructuous on

account of the striking of the appellant/defendant's right. The learned Court below was duty bound to give its findings on every issue regardless of the fact that the defence right had been struck off. If at all, it is presumed that the appellant/defendant absented himself from the Court and his right to produce evidence stood struck off under Order XVII, Rule 3 C.P.C. even then the learned Court below was under a legal obligation to give its findings on each issue separately.

IMPUGNED DECREE NOT IN CONFORMITY WITH THE IMPUGNED JUDGMENT:-

19. As discussed above, the learned trial Court vide impugned judgment dated 07.01.2020 decreed the suit with costs and a decree sheet was ordered to be drawn up. The impugned judgment does not set out the decreetal amount. All that the impugned judgment sets out is that the suit is decreed with costs. It does not specify the amount as to what extent it has been decreed and as to whether the suit was decreed as prayed for along with the prevailing interest rate. The decree sheet so drawn up also does not make mention of the decreetal amount. If at all, it is held that the evidence produced by the respondent/plaintiff was confidence inspiring and the alleged oral agreement stood proved even the decree does not withstand the test of an executable decree. Hence, the same is liable to be set aside on this score alone.

20. Section 33 of the C.P.C. provides that the decree 'shall' follow the judgment and rule 6 of Order XX, C.P.C. provides that decree 'shall' agree with the judgment. Where a provision uses the word 'shall' and requires an authority to do something in a particular manner, it is deemed to be mandatory as laid down by the Hon'ble Supreme Court in the case of **"The Collector of Sales**

Tax Gujranwala and others v. Messrs Super Asia Mohammad Din and Sons and others (2017 SCMR 1427), wherein it has been laid down that word 'shall' was to be construed in its ordinary grammatical meaning and normally the use of word 'shall' by the legislature branded a provision as mandatory, especially when an authority was required to do something in a particular manner.

21. Perusal of the referred case laws and provisions of the law cited hereinabove make it abundantly clear that it is a mandatory provision of law that the decree should agree with the judgment and has to express what is determined in the judgment. Therefore, by not drawing the decree sheet in accordance with the judgment, the Court had not properly exercised the jurisdiction vested in it as this omission to prepare decree sheet that agreed with the judgment was against the principle of law, which provides that where a law requires an act to be done in a particular manner it had to be done in that manner alone and such dictate of the law could not be termed a mere technicality and if done otherwise it would be non-compliance of the legislative intent. Reliance in this regard is placed upon the law laid down in the cases of **Shahida Bibi and others Vs. Habib Bank Limited and others (PLD 2016 SC 995), Muhammad Anwar and others Vs. Mst. Ilyas Begum and others (PLD 2013 SC 255) and Zia ur Rehman Vs. Syed Ahmad Hussain (2014 SCMR 1015). Apart from this, it is the duty of the Court to apply correct law. Reference in this regard may be made to the judgment reported as Government of NW.F.P. and others v. Akbar Shah and others (2010 SCMR 1408)** wherein it has been held as under:

> *"It is settled principle of law that it is the duty and obligation of the Court to apply correct law on the well-known maxim that judge must wear all the laws of the country on the sleeve of his robe and failure of the*

> *counsel to properly advice is not a complete excuse in the matter as law laid down by this Court in Muhammad Sarwar's case PLD 1969 SC 278 ."*

22. Additionally, it is the decree and not the judgment that is to be executed. Reliance in this regard may be placed on the case of **Rehmat Wazir and others v. Sher Afzal and others (2005 SCMR 668),** wherein the Hon'ble Supreme Court has held as follows:

> *"It is a matter of settled law by this Court in Ghulam Muhammad's case PLD 1963 SC 265 that not the judgment but the decree is executable and executed"*

23. It is also pertinent to mention that the connection of a decree drawn in a suit with the judgment passed therein is such that the judgment is the substratum on which the decree has its foundation and it cannot stand independent of the same and decree falls down when its substratum (i.e. the judgment) ceases to exist or hold the field, exception being the decree being upheld on different grounds. Reliance is placed on the case titled Pakistan Industrial Credit and Investment Corporation Ltd. v. Mahboob Industries Ltd. and 10 others (PLD 1984 Kar. 82), wherein the Sindh High Court while referring to Section 33 and Rule 7 of Order XX of C.P.C. has held that where the judgment became null and void the decree that must follow the judgment shall also become void.

24. It is settled by now that the act of court shall prejudice no one and where any court did not comply with a mandatory provision of law or omitted to pass an order in the manner prescribed by law, then the litigant/parties could not be taxed, much less penalized for the act or commission of the court. Fault in such cases did lie with the court and not with the litigants and no litigant should suffer on such account unless he/they were contumaciously negligent and had deliberately not complied with

mandatory provision of law. Reliance in this regard is placed upon the case of **Muhammad Ijaz and another v. Muhammad Shafi through L.Rs. (2016 SCMR 834)** wherein it has been laid down as under:

> *"17 ... ...There is a well-known maxim "Actus Curiae Neminem Gravabit" (an act of the court shall prejudice no man) thus,* ***where any court is found to have not complied with the mandatory provision of law or omitted to pass an order, required by law in the prescribed manner then, the litigants/ parties cannot be taxed, much less penalized for the act or omission of the court****. The fault in such cases does lie with the court and not the litigants and no litigant should suffer on that account unless he/ they are contumaciously negligent and have deliberately not complied with a mandatory provision of law. (see PLD 1972 SC 69) ....."*

25. In such like situation where injustice is caused due to the act or omission on the part of the Court, the Courts are required to remedy the defect that occurred as a consequence thereof. Reliance is placed on **Sherin and 4 others v. Fazal Muhammad and 4 others (1995 SCMR 584)** wherein it has been held as under:

> *"13. We may refer here with advantage to the classic remarks of Lord Eldon in Pulteney v. Warren (1801) 6 Ves. 73, 92, quoted by Meclean C.J., in Lakhan Chunder Sen v. Madhu Sen (ILR 35 Calcutta 209):-*
> *"If there be a principle, upon which Courts of justice ought to act without scruple, it is this; to relieve parties against that injustice occasioned by its own acts or oversights at the instance of the party, against whom the relief is sought. That proportion is broadly laid down in some of the cases:" This view was approved of by the House of Lords in The East India Company v. Campion (1837) 11 Bli. (ICS.) 158."*

26. In the same way, there are the observations of Lord Cairns, L.C. in **Rodger v. The Comptoir d'Escompte de Paris (1871) 3 P.C. 465,** which were quoted with an approval by Lord Carson in **Jai Berham v. Kedar Nath (AIR 1922 PC 269), which read as under:-**

> *"One of the first and highest duties of all Courts is to take care that the act of the Court does not cause injury to any of the suitors and when the expression 'the act of the Court', is used, it does not mean merely the act of the Primary Court, or of any intermediate Court of Appeal, but the act of the Court as a whole from the lowest Court which entertains jurisdiction over the matter up to the highest Court which finally disposes of the case"*
> **Emphasis laid:**

27. The above-referred judgments lead me to the conclusion that not only it is the duty of the Court to apply correct law but also to apply the law correctly. Therefore, failure to adherence to the law in its true perspective renders the decree, as it stood, merely one for a declaration and was not executable as such.

28. In view of what has been discussed above, the impugned judgment and decree dated 07.01.2020 passed by the learned Court below having been based on misinterpretation of the law on the subject and the result of misreading and non-reading of the evidence available on the record, suffers from material irregularity and illegality calling for interference by this Court. Resultantly, the instant appeal stands **allowed** and consequently, the impugned judgment and decree dated 07.01.2020 is set aside. There shall be no order as to costs. Before parting with this judgment, it is to observe that if this matter is remanded back to the learned trial Court for decision afresh, it would serve no useful purpose since the alleged oral agreement, which has been discussed in detail *supra*, could not be proved by the respondent / plaintiff. Appeal succeeds.

(ARBAB MUHAMMAD TAHIR)
JUDGE

Announced in open Court on 06.06.2020

JUDGE

ISLAMABAD | 06.06.2022
APPROVED FOR REPORTING

//Kamran//