

## **JUDGMENT SHEET.**

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

**Civil Revision No. 38/2019.**

**Muhammad Ikram Shah**

*Versus*

**Muhammad Ahsan Shah, etc.**

Petitioner: In person.

Respondents by: Nemo/Ex-parte

Date of Decision: 08.10.2020.

**MOHSIN AKHTAR KAYANI, J:-** Through this Civil Revision, the petitioner has assailed the order dated 07.12.2018, passed by learned Additional District Judge, Islamabad, whereby appeal filed by petitioner was dismissed.

2. Brief facts referred in the instant civil revision are that petitioner filed suit for declaration, permanent and mandatory injunction against respondents, whereas during the course of proceedings, respondents filed their power of attorney which was objected by the petitioner as such the objections were dismissed by the trial Court vide order dated 21.06.2018 and the said order was maintained by the Appellate Court. Hence, instant civil revision.

3. Petitioner in person states that respondent No.2/defendant is in USA for the last 12/13 years, who issued General Power of Attorney (GPA) in favour of his son namely Zeeshan Shan, resident of Lahore, the said attorney was attested by Ministry of Foreign Affairs and the same was registered at Sub-Registrar office, Lahore on the strength of said GPA Zeeshan Shah attorney filed Vakalatnama dated 05.03.2016 in the pending civil suit, even amended written statement was filed through fresh vakalatnama. The petitioner further states that GPA is not attested by Ministry of Foreign Affairs sub office Lahore, nor it was

registered with Sub-Registrar office Allama Iqbal Town, Lahore rather the same was fake and as such the original power of attorney has to produce before the Court in terms of Order III Rule 1 CPC read with Order IX Rule 12 CPC for verification/genuineness of GPA but his request was turned down by the trial Court despite the fact that he has obtained verification record of concerned record keeper of Registrar office Allama Iqbal Town, Lahore which discloses that such attorney was not registered in their record.

4. Notices were issued to respondents but despite service they have not opted to appear, hence, they were proceeded *ex-parte* vide order dated 21.11.2019, passed by this Court.

5. Arguments heard, record perused.

6. I have gone through the orders, passed by learned trial Court as well as appellate Court, whereby the stance taken by the petitioner has been acknowledged by learned Additional District Judge (West), Islamabad in the impugned order dated 07.12.2018 in para-10:-

*Coming to the alleged forgery, it is observed that all the reports by which the foreign office and Sub-Registrar Lahore have allegedly disowned the stamps and entries, have privately been obtained by the appellant/plaintiff, hence, on the basis of these reports alone power of attorneys submitted in the court cannot be declared forged.*

7. The only defect highlighted by the Appellate Court is that verification reports obtained by the petitioner have been managed through private channel and on this analogy power of attorney could not be declared forged. The view rendered by Additional District Judge (West), Islamabad is in accordance with law and as such the issue relating to power of attorney requires thorough probe, which could only be done in the process of recording of evidence and such legal question could not be brushed aside by simple dismissal of objections of the petitioner. The trial Court as well as Appellate Court have rightly observed that

as per Article 95 of *Qanun-e-Shahadat* Order, 1984 presumption of truth is attached to GPA unless the same was rebutted through contrary evidence. Similarly, requirement referred in Section 17, 32, 33 of Registration Act also highlighted the presumption of genuineness unless contrary has been proved.

8. In view of above position, the orders so passed by the Courts below are within four corners of law, therefore, instant civil revision is hereby **dismissed** with direction to the learned trial Court seized with the matter to conclude the same on or before 30.06.2021 by framing specific issue on the status of disputed power of attorneys, whereas petitioner be permitted to produce all the necessary verifications by calling the record keeper or other witnesses to justify his stance as to whether GPA is forged or otherwise.

(MOHSIN AKHTAR KAYANI)  
JUDGE

Zahid