

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

C.R. No.121/2018
Raja Zahid Iqbal
Vs.
Tauqeer ud Din and others

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	09.12.2019.	Mr. Qaiser Imam Ch, advocate for the petitioner. Mr. Zulfiqar Ali Abbasi and Mr. Shahid Munir, advocates for respondent No.1. Ch. M. Naeem Ali Gujjar, advocate for respondent No.2. Syed Ali Abbas Kazmi, advocate for respondent No.3. Mr. Naseem Ahmed Shah, advocate for respondent No.4 and 5.

On 15.05.2014, the petitioner filed a suit for declaration, specific performance of oral exchange agreement and cancellation of registered sale deeds etc., before the Court of the learned Civil Judge, Islamabad. Defendant No.1 in the said suit was the party with whom the petitioner claims to have entered with an oral exchange agreement dated 26.05.2013, whereas defendants No.2 and 3 are the parties to whom defendant No.1 is said to have sold the suit property, which was supposed to be transferred in the petitioner's favour in fulfillment of the said oral exchange agreement.

2. Along with the said suit, the petitioner also filed an application for an interim injunction, which was allowed by the learned Civil Court on 31.07.2017. One of the defendants assailed the said order before the Court of the learned Additional District Judge, Islamabad. The appellate proceedings culminated in the passing of the impugned order dated 28.03.2018, whereby the appeal was allowed and the petitioner's application for interim injunction was dismissed. The said order dated 28.03.2018

has been assailed by the petitioner in the instant civil revision petition.

3. Learned counsel for the petitioner submitted that in fulfillment of the petitioner's obligation under the said oral exchange agreement dated 26.05.2013, the petitioner has already transferred 12 marlas of land in Khasra Nos.3573 and 3574 in Mouza Moorian, Tehsil and District, Islamabad to respondent No.1, whereas the latter instead of transferring the property to the petitioner, has transferred the same to respondents No.2 and 3 through registered sale deeds, which are sought to be cancelled by the petitioner.

4. After hearing the learned counsel for the contesting parties, I am of the view that since the dispute between the contesting parties pertains to immoveable property and an oral exchange agreement, the petitioner has yet to prove his right through recording of evidence. Even otherwise, since the matter pertains to immoveable property, the doctrine of *lis-pendens* as enshrined in section 52 of the Transfer of Property Act, 1882, adequately protects the petitioner.

5. In view of the said observations, learned counsel for the petitioner does not press this petition provided that the learned Civil Court decides the suit expeditiously. Order accordingly.

6. Disposed of in the above terms.

(MIANGUL HASSAN AURANGZEB)
JUDGE

Sanaullah