

Form No: HCJD/C-121
ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
(JUDICIAL DEPARTMENT)

Civil Revision No.100/2020

Arshad Mehmood Mughal

Versus

Hassan Bano, etc.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	09-03-2020	Syed Iqbal Hussain Shah Gillani, Advocate for petitioner.

Arshad Mehmood Mughal son of *Muhammad Akbar Mughal* (hereinafter referred to as the '**Petitioner**') has assailed judgments and decrees, dated 22-07-2019 and 25-01-2020, rendered by the learned Civil Judge 1st Class (West), Islamabad and the learned Additional District Judge, respectively.

2. The facts, in brief, are that the petitioner filed a suit on 30-06-2012 seeking specific performance of agreement, dated 04-01-2012 (*hereinafter referred to as the '**Agreement**'*). The dispute is regarding plot no.676, Category-III, Sector D-12/2, Islamabad (*hereinafter referred to as the '**Plot**'*). It was the case of the petitioner that he

had executed the Agreement with *Ms Hassan Bano* wife of Arzumand Khan (*hereinafter referred to as the 'Respondent'*) and that sale of the Plot was agreed in lieu of payment of sale consideration amounting to Rs.2.2 million. According to the assertions made in the plaint, an amount of Rs.100,000/- was paid to the respondent as earnest money. The suit was contested by the respondent by filing written statement wherein she explicitly denied execution of the Agreement. It was also asserted that on the date of the purported Agreement, no plot was allotted in her favour rather formal allotment was made vide letter, dated 20-06-2012. The learned trial Court vide order, dated 25-05-2013, framed eight issues. The parties were allowed to adduce their respective evidence and after affording an opportunity of hearing, the learned trial Court dismissed the suit vide judgment and decree, dated 22-07-2019. The petitioner preferred an appeal and that too did not find favour with the learned Additional District Judge and was dismissed vide judgment and decree, dated 25-01-2020.

3. The learned counsel for the petitioner has been heard at length. He has mainly argued that

the concurrent findings are based on misreading and non-reading. He has further stated that execution of the Agreement was proved by the Petitioner through placing on record credible and unimpeachable evidence.

4. The learned counsel has been heard and the record perused with his able assistance.

5. The Agreement according to the Petitioner's version was executed on 04-01-2012. Perusal of the Agreement (Exh.P-1) shows that description of the Plot was not mentioned therein. The execution of the Agreement could also not be proved by the petitioner in accordance with the provisions of Article 79 of the Qanoon-e-Shahadat Order, 1984 by failing to produce one of the marginal witnesses. The other witnesses who had entered the witness box had deposed that the Agreement was not executed in their presence. The Plot was allotted in the name of the respondent vide letter, dated 20-06-2012. The Petitioner failed to establish his bonafides by depositing the total sale consideration in the trial Court within a reasonable time. At the time when the purported Agreement was executed, the Plot was not allotted and thus the subject matter was not in existence. The learned

counsel for the petitioner, despite his able assistance, could not show that the concurrent findings by two competent Courts suffer from any misreading or non-reading or any other legal infirmity.

6. For what has been discussed above, the petition is without merit and is, therefore, accordingly dismissed.

(CHIEF JUSTICE)

Luqman Khan.