

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

F.A.O. No.205 of 2019  
Mst. Halima Atif  
**Versus**  
Zaigham Ali

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	05.11.2019	Sheikh Muhammad Khizar-ur-Rashid and Ms. Shahina Shahab-ud-Din, Advocates for the appellant.

Through the instant appeal, the appellant, Mst. Halima Atif, impugns the order dated 19.10.2019 passed by the Court of the learned Senior Civil Judge, Islamabad, dismissing the petitioner’s application under Order XXXIX, Rules 1 and 2 of the Code of Civil Procedure, 1908 (“C.P.C.”) filed along with her suit for possession through pre-emption and permanent injunction.

2. Learned counsel for the appellant submitted that the learned Civil Court has erred by not appreciating that the petitioner is the co-owner in the *Khasra* where the suit land is located; that since the suit land purchased by the respondent/defendant was never mutated in his favour in the revenue record, there was no way for the appellant to know about the purchase of the suit land made by the respondent; that it may well be inferred that the suit land was purchased by the respondent from the sons of Haji Sardar Muhammad Mughal and Muhammad Siddique Mughal in the year 1976 but the appellant came to know about

the said transaction on 27.11.2018; that the appellant has fulfilled the requirements of *Talb-i-Muwathibat* and *Talb-i-Ishhad* in accordance with the law; that the appellant has also deposited the *Zar-e-Soim* within a period of thirty days of the knowledge; and that the learned Civil Court did not take into consideration the *Fard* on the record showing that the appellant is a co-owner in the *Khasra* where the suit land is situated. In making his submissions, learned counsel for the appellant placed reliance on the judgment reported as PLD 1980 Lahore 382.

3. I have heard the contentions of the learned counsel for the appellant and have perused the record with his able assistance.

4. The learned Civil Court, in the impugned order, has recorded that the purchase of the suit land made by the respondent from the sons of Haji Sardar Muhammad Mughal and Muhammad Siddique Mughal with respect to which the suit for pre-emption was filed by the appellant had taken place on 20.12.1976 through a registered sale deed Nos.12737 and 12738. The mere fact that the purchase so made by the respondent had not been mutated would not be of much significance since the purpose of registration is to give notice of a transaction to the public. Since the doctrine of *lis pendens* adequately protect the appellant, I have no reason to interfere

with the impugned order dated 19.10.2019. Consequently, the instant appeal is dismissed in limine.

**(MIANGUL HASSAN KURANGZEB)**  
**JUDGE**

Sultan\*