

Form No: HCJD/C-121.

JUDGEMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Civil Revision. No. 106 of 2012

Mst. Sakeena Bibi, etc

Vs

Abdul Hafeez, etc

PETITIONER BY: Mr. Niazullah Khan Niazi, Advocate.
RESPONDENTS BY: Mr. Muhammad Ishtiaq Ahmed, Advocate.

DATE OF HEARING: **21-10-2019.**

ATHAR MINALLAH, CJ.- This Civil Revision is directed against judgment and decree, dated 12.09.2012, passed by the learned Additional District Judge-(East), Islamabad whereby appeal preferred by Abdul Hafeez s/o Abdul Ahad (hereinafter referred to as the "***Respondent/Plaintiff***") was allowed.

2. The facts, in brief, are that the controversy is regarding land measuring 06 kanals and 15 Marlas in Khewat No.679, Khatooni No.1310, Khasra No.337 situated in the revenue estate of Mohra Noor, District Islamabad (hereinafter referred to as the "***Property***"). The Respondent/Plaintiff has asserted that he had purchased the Property vide sale deed No.1137, dated 23.11.1980, which was duly registered by the Joint Sub Registrar, Islamabad followed by entries having been made in the revenue record i.e. mutation no.1083 of 1980. The Property was stated to have been purchased from one Belore Jan. The latter was allotted the Property under the Rehabilitation Scheme for

the refugees of the State of Jammu & Kashmir. The Respondent/Plaintiff was in possession of the Property after the sale deed was registered. The Respondent/Plaintiff filed a suit seeking for declaration and permanent injunction. The suit was partially decreed by the learned trial Court vide judgment, dated 01.04.2009 to the extent of seeking permanent injunction. The Respondent/Plaintiff assailed the judgment and decree by preferring an appeal, which was allowed by the learned appellate Court vide judgment and decree, dated 12.09.2012.

3. The learned counsel for the petitioners has argued that; the Property was allotted in favour of the predecessor in interest of the petitioners on 15.05.1961 because he was a refugee from the State of Jammu & Kashmir; the Property was later permanently allotted in favour of the predecessor in interest; the required fee was also deposited; Ms Belor Jan was allotted 79 Kanals and 19 Marlas in the same Revenue Estate temporarily and that Khasra No.337 wherein the disputed property is situated was not included therein; the learned appellate Court has misread the record; misreading and non-reading has led to passing of the impugned judgment and decree; reliance has been placed on 'Manzoor Hussain and 6 others vs. Zulfiqar Ali and 8 others', **1983 SCMR 137**, 'Ghufran Ahmad Siddiqi and 8 others vs. Subhan Sheikh and 7 others', **PLD 1983 Lahore 157**, 'Jan Muhammad and others vs. Sher Muhammad and another', **PLD 1979 SC 985** and 'Mst. Sakina Bibi and another vs. Māmīla and 2 others', **PLD 1977 Lahore 202**.

4. On the other hand the learned counsel for the Respondent/Plaintiff has argued that; possession of the latter is admitted; to the extent of permanent injunction the judgment and decree of the learned trial Court was never assailed by the petitioners; the judgment and decree, dated 12.09.2012 does not suffer from any legal infirmity and, therefore, no interference is required while exercising revisional powers.

5. The learned counsels have been heard and the record perused with their able assistance.

6. It is an admitted position that the Property is in possession of the Respondent/Plaintiff and that registered sale deed, dated 23.11.1980 was never challenged by the petitioners. It is also not disputed that the predecessor in interest had filed a suit, which was dismissed vide judgment and decree, dated 25.6.1983. The predecessor in interest had also not made any attempt to take possession of the Property. The attempts made by the predecessor in interest to claim his ownership did not succeed and he did not pursue the matter after dismissal of the suit. The learned trial Court had definitely not taken into consideration the evidence, which was brought on record by the parties, particularly by the Respondent/Plaintiff. The learned appellate Court had appraised the entire evidence brought on record and on balance of probabilities had rightly concluded that the Respondent/Plaintiff had established his case. The learned counsel for the petitioners, despite his able assistance, could not show any legal infirmity. The impugned judgment and decree, dated 12.09.2012 does not suffer from any misreading or non reading of the evidence and thus no interference by this Court is

required while exercising revisional powers. In the facts and circumstances of this case, the case law relied upon on behalf of the petitioners is distinguishable.

7. For the above reasons, this *Civil Revision* is without merit and is, therefore, accordingly dismissed.

CHIEF JUSTICE

Announced in the open Court on **13-01-2020**

CHIEF JUSTICE

Asif Mughal/*