

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
(JUDICIAL DEPARTMENT)

Civil Revision No.493 of 2019

Abdul Waheed and another
Versus
Siparas Hussain Abbasi

S.No. of order/ proceeding	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
(04)	18.02.2020	Ms. Palwasha Tariq, Advocate, learned counsel for the petitioner.

Through instant Civil Revision, the petitioner has challenged the order dated 17.09.2019 passed by the learned Senior Civil Judge-II, (East), Islamabad, whereby the right of plaintiffs/petitioners to produce further evidence was closed under Order XVII Rule 3 CPC.

2. Precisely, the facts are that the plaintiffs/petitioners filed a suit for Specific Performance of agreement, recovery of damages and permanent injunction. The suit was contested by the respondent/defendant by filling written statement and out of the pleading of the parties; the learned trial Court framed the issues and plaintiffs/ petitioners were directed to adduce evidence. The plaintiffs/petitioners also submitted list of witnesses which is annexed at page-71 of the instant petition. The plaintiffs/petitioners produced Shahid Iqbal PW- 1, Gul Nawaz PW- 3 and Syed Haroon Anjum PW- 4 and sought an adjournment to produce the second marginal witness of the agreement

namely Muhammad Shafique whose name is also reflected in the list of witnesses. On 17.09.2019, the plaintiffs/petitioners filed an application with the prayer for summoning of the said witnesses through Court but he learned trial Court instead of summoning the said witness, dismissed the application and also closed the right of the petitioner of producing oral as well as documentary evidence under Order XVII rule 3 CPC, hence, the instant petition.

3. As per office report, notices issued to the respondent have been served and despite repeated calls none put appearance on behalf of the respondent, therefore, he is proceeded against Ex-parte.

4. Learned counsel for the petitioner contends that the only witness namely Muhammad Shafiq, who is marginal witness of the agreement was sought to be summoned through the learned trial Court but instead of summoning the PW, the learned trial Court passed the impugned order by striking off the right of further evidence of petitioners vide the impugned order dated 17.09.2019.

5. Keeping in view the above circumstances, in the interest of justice, this civil revision petition is **allowed** by setting aside the impugned order dated 17.09.2019. Parties are directed to appear before the learned trial Court on 25.02.2020. Learned trial Court shall afford opportunity to the plaintiffs/petitioner to produce Muhammad Shafique as witness,

subject to payment of cost of Rs.10,000/-, to be paid by the petitioner to the respondent before the learned trial Court.

~~(GHULAM AZAM QAMBRANI)~~
JUDGE

"Rana. M.Ift"