

JUDGMENT-SHEET
IN THE ISLAMABAD HIGH COURT,
ISLAMABAD

Writ Petition No.4845 of 2014

Irfan ul Haq

Versus

Mian Rashid Arsahd, etc.

Petitioner by: Mr. Naseer Anjum Awan, Advocate,

Respondents by: Mr. Shabbir Ahmad Mirza, Advocate.

Date of Hearing: 16.03.2021.

FIAZ AHMAD ANJUM JANDRAN, J:- Through instant writ petition, petitioner impugns order dated 30.10.2014.

2. Essential and relevant facts for adjudication of the instant writ petition are that on 08.07.2010, *ex-parte* decree was passed against the petitioner; he challenged the said decree and his application was dismissed. In the light of said judgment and decree dated 08.07.2010, an application was filed by the respondent to deposit the sale consideration as directed in the judgment; said application was allowed on 01.03.2012. Thereafter, respondent filed an execution petition. Present petitioner filed objection petition and sought review of the order dated 01.03.2012; said objection petition was dismissed vide order dated 21.06.2014. Against said order of 21.06.2014, petitioner filed civil revision petition which was dismissed vide order dated 30.10.2014, impugned through instant writ petition.

3. Learned counsel for the petitioner contended that orders passed by the courts below are against facts and law; material point has not been considered by the two

Courts below. That law has not been applied in true perspective by the courts below.

4. Learned counsel for the respondent argued that amount was deposited in the light of permission granted by the Court and findings of the Courts below are well reasoned.

5. Heard the learned counsel for the parties and perused the record with their able assistance.

6. Through instant writ petition, petitioner has disputed the order dated 30.10.2014 which has been passed by the Revisional Court after evaluation of the material available on record.

7. This Court is cognizant of the fact that matter before the Court is by way of an exercise of writ jurisdiction and there are many disputed questions of facts which have been agitated by either side and confronted by the other side. Material available on record shows that these disputed questions of facts while exercising constitutional jurisdiction could not be evaluated. Reliance is placed upon case law reported as "***Amir Jamal and others v. Malik Zahoor-ul-Haq and others***" (2011 SCMR 1023) wherein it is held as under:-

"The scope of Article 199 is dependent on the questions which are devoid of factual controversy."

8. It is further noticed that two forums below have evaluated, considered, adjudicated upon all material available on record concurrently against the present petitioner. To disturb concurrent findings of two courts

below, some material illegality should be flouted on the surface of record which could not be pointed out and are not open for interference in constitutional jurisdiction. Consequently, instant writ petition is **dismissed**.

(FIAZ AHMAD ANJUM JANDRAN)
JUDGE

Imran

Announced in open Court on **15.04.2021**.

JUDGE