

Form No: HCJD/C-121

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

FAO No. 82/2019

Dr. Muhammad Raheem Awan

Vs

Afzal Ahmed, etc.

| S. No. of order/ proceedings | Date of order/ proceedings | Order with signature of Judge and that of parties or counsel where necessary. |
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05. 21-08-2019. Mian Abdul Rauf and Mr. Tariq Mehmood
Advocates for appellant.
Mr. Muhammad Amjad Ali Malik, Advocate for
respondents.

Through this order I shall decide the
instant appeal as well as Crl. Org No.
131/2019, titled "*Dr. Muhammad Raheem
Awan Vs. Zakir Hussain, etc*".

2. Through the instant appeal i.e FAO No.
82/2019, the appellant has assailed order,
dated 21.03.2019, passed by Civil Judge, 1st
Class-East, Islamabad, whereby application
under Order 39 Rules 1 & 2 of Code of Civil
Procedure, 1908 was dismissed.

The learned counsels for the parties
have been heard at length.

4. The learned counsel for the appellant has stated that the learned trial Court has not taken into consideration the fact that the person who was appointed as attorney had transferred the land to his close relatives, which was not permissible under the law enunciated by the august Supreme Court. Reliance in this regard has been placed on the judgments rendered in the cases titled "*Mst. Ghulam Fatima Vs. Muhammad Din and others*" **[2004 SCMR 618]** and "*Mst. Naila Kausar and another Vs. Sardar Muhammad Bakhsh and others*" **[2016 SCMR 178]**.

5. When confronted with the above, the learned counsel for the respondents was not able to show that this crucial aspect was taken into consideration by the learned trial Court.

6. In the above stated facts and circumstances, it appears that the learned trial Court has not exercised its discretion in accordance with law. The instant appeal is, therefore, **allowed** and the impugned order,

dated 21.03.2019, is hereby set aside. The application filed by the appellant seeking injunctive order shall be deemed to be pending before the learned trial Court. The learned trial Court, after affording an opportunity of hearing to the parties, is expected to decide the application expeditiously preferably within 3 weeks from the date of receiving a certified copy of this order.

7. This Court is satisfied that a case is not made out for initiating proceedings under the Contempt of Court Ordinance, 2003 and, therefore, contempt petition i.e Crl. Org No. 131/2019 is accordingly disposed of.

CHIEF JUSTICE

Sherazi.