

JUDGMENT SHEET.
ISLAMABAD HIGH COURT, ISLAMABAD,
JUDICIAL DEPARTMENT.

Civil Revision No.77/2013.

Ch. Mazhar Khalil Vs. Muhammad Ashraf Bhatti etc.

Petitioner by: Mr. Ehsan Ullah Sial, Advocate.

Respondent No.1 in person and also on behalf of
respondent No.2 being attorney.

Date of Decision: 30.06.2020.

MOHSIN AKHTAR KAYANI, J:- Through this civil revision petition, the petitioner has assailed the judgment & decree dated 20.11.2009, passed by learned Senior Civil Judge, Islamabad and the judgment & decree dated 19.01.2013, passed by learned Additional District Judge, Islamabad, whereby suit as well as appeal filed by the petitioner were dismissed concurrently.

2. Learned counsel for the petitioner contends that the petitioner filed a civil suit for recovery of Rs.14,50,000/- against the respondents, which was dismissed without appreciating the evidence available on record; that respondent No.1 is ex-father in law of the petitioner, whereas respondent No.2 is his brother in law, who received Rs.14,50,000/- as consideration to arrange plot in Islamabad through oral agreement in presence of Baber Hussain/P.W.2 and Ibrar Ahmed P.W.3; that both the Courts below have not considered the evidence of P.Ws, who confirmed the handing over of the payment as sale consideration alongwith execution of oral agreement qua the plot.

3. Conversely, respondent No.1 in person contends that he is also representing respondent No.2, who is his real son; that the petitioner is his ex-son in law, who filed false and frivolous suit to exert pressure upon them; that daughter of the petitioner filed suit for dissolution of marriage against the petitioner and the petitioner in order to counter that suit filed civil suit for recovery to settle family score but failed to substantiate legal grounds; that the petitioner never entered into agreement to sell nor received any amount; that both the Courts below have rightly dismissed claim of the petitioner.

4. I have heard the arguments and perused the record.

5. Perusal of the record reveals that the petitioner, who is ex-son in law of respondent No.1 filed suit for recovery of Rs.14,50,000/- being investment in March, 2008 with respondent No.1 and alleged that it was agreed between the parties that profit will be shared on 30% and 70% but despite the commitment the plot was neither arranged nor the amount was returned. The respondents have denied the oral agreement to sell and even receiving of the amount in the written statement. Learned Trial Court framed the issues. The petitioner himself appeared as P.W.1 and reiterated his stance but surprisingly he could not justify his transfer of payment, even nothing was written amongst the parties nor any such document is available on record. The petitioner produced Baber Hussain as P.W.2, who has not justified contents of the oral agreement between the parties, even he is unaware of the total payment, hence, his evidence cannot be considered in terms of Qanun-e-Shahadat Order, 1984. Similarly, Ibrar Ahmed/P.W.3 has also given vague evidence qua the oral agreement as well as the payment. The initial onus was upon the petitioner in terms of Article 117 of Qanun-Shahadat Order, 1984, which has not been discharged in proper manner. The entire case of the petitioner discloses that it is counter blast to the suit for dissolution of marriage filed by Sadia ex-wife of the petitioner and real daughter of respondent No.1.

6. I have gone through the impugned judgments of Courts below, in which each and every aspect has been discussed and appreciated in proper manner. No illegality has been pointed out by the petitioner and there is no jurisdictional defect in the impugned judgments.

7. In view of above discussion, the instant civil revision petition bears no merits, therefore, the same is hereby dismissed.

(MOHSIN AKHTAR KAYANI)
JUDGE

R Anjam