

**ORDER SHEET**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD.**  
**JUDICIAL DEPARTMENT.**

Review Application No.11-2020

In

Civil Revision No.150-2015

Saeed Ahmad

Vs.

Syed Ghalib Hussain Rizvi, Islamabad etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
------------------------------------	----------------------------------	--

28.09.2021

Mr. Jan Muhammad Khan, Advocate and Mr. Abid Hussain Chohan, Advocate for petitioner.

Rao Sabir Hussain, Advocate for respondents.

Through the instant petition, the petitioner has sought review of order dated 13.11.2019 passed in C.R. No.150-2015.

2. Learned counsel for the petitioner *inter alia* contended that while disposing of civil revision, this Court had observed that possession is not being delivered, whereas possession, at the material time, was with the petitioner but the respondents were not transferring the property in question. It was contended that said observation is an obstacle for the petitioner/applicant in having the decree executed.

3. Learned counsel for the respondents *inter alia* contended that instant review application is not maintainable inasmuch as it is beyond the scope of the principles for review as mentioned in section 114 read with Order XLVII Rule 1 CPC.

4. Arguments advanced by learned counsel for the parties have been heard and the documents, placed on record, examined with their able assistance.

5. The background, leading to filing of instant review application, is that petitioner filed a suit for specific performance against respondents with respect to land measuring 150 kanals along with shamlaat in Mouza Tumair, Islamabad. The referred suit was decreed in favour of petitioner and as per the decree, he was allowed seven days time to deposit balance consideration amount. The petitioner filed an application for extension in time, which was dismissed, hence C.R. No.150-2015. In the referred proceedings, learned counsel for the parties submitted that out of court settlement has been arrived at between the parties, whereby not only the parties settled the time but also the consideration.

6. Under Order XLVII Rule 1 CPC, the principles, on the basis of which review application is maintainable, are provided and under the same, where there is error on the face of record; there is new evidence or fact coming to light or any other sufficient ground, the review application is maintainable and may be allowed. The case of petitioner does not fall within said principles.

7. It is an admitted position that after passing of judgment and decree dated 26.03.2015 in favour of petitioner, the parties

entered into a compromise/settlement. As per contention of learned counsel for the respondents, the consideration for the property was revised which has not yet been paid, whereas contention of learned counsel for the petitioner is that possession, at the material time, was with the petitioner, however, it was taken away forcibly by the respondents, which is hampering the execution of decree.

8. Be that as it may, since after passing of judgment and decree, parties entered into a new agreement and the default, by any one party with respect to the same, is to be adjudicated before the court of plenary jurisdiction. Moreover, whether the petitioner has possession of property or that was taken away forcibly during pendency of civil revision or there-after, can only be adjudicated by the executing court. If the petitioner files execution application or as noted above, any party appeals the courts of plenary jurisdiction in any appropriate proceedings initiated by either party.

9. Under the facts and circumstances, no ground for review is made out, as there is nothing on record to show that at the relevant time, the petitioner had the possession of the property or it was inadvertently or mistakenly mentioned that respondents are not delivering possession of the same, hence it cannot be said that there is an error patent on the face of record.

10. For what has been stated above, instant review application is without merit and is accordingly dismissed.

**(AAMER FAROOQ)**  
**JUDGE**

Zawar