

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Justice Qazi Faez Isa, CJ
Justice Amin-ud-Din Khan
Justice Athar Minallah

Civil Petition No.3465-L of 2022

*Against the order dated 25.11.2022
passed by the Lahore High Court,
Lahore in Civil Revision No.4911 of
2016.*

Ghulam Fareed (deceased) through his L.Rs., etcPetitioners

Versus

Daulan BibiRespondent

For the petitioners: Mr. Seerat Hussain Naqvi, ASC through video
link from Lahore Branch Registry.

For the respondent: N.R.

Date of Hearing: 20 November 2023

ORDER

Qazi Faez Isa, CJ. Learned counsel for the petitioners states that the petitioners' predecessor had purchased land through sale mutation, No.727, attested on 13 June 1994. However, the respondent filed a suit on 6 November 2008, which was hopelessly time barred. He further states that the respondent had simply denied her thumb impression on the said mutation and that the report of the Finger Print Bureau, Punjab is in itself not sufficient for disproving that the sale mutation bore her thumb impression.

2. The suit filed by the respondent was decreed on 16 October 2014 against which the petitioner filed an appeal which was dismissed on 29 October 2016. Thereafter, the petitioners invoked the revisional jurisdiction of the High Court but the Civil Revision filed by the petitioners was dismissed on 25 November 2022. Fifteen years have passed since the suit was filed by the respondent, and at three different forums she succeeded and the petitioners lost. On our query we are told that the possession of the subject land remains with the petitioners. The petitioners have disregarded all three decisions of the courts and continue to retain the illegal possession of the land.

3. The burden to establish the purported sale lay upon the beneficiary of the sale but this was not discharged. The respondent was

not required to disprove the sale yet she undertook to do so. She came forward and had her purported thumb impression was sent for forensic determination by the Finger Print Bureau, Punjab which submitted a comprehensive report and the witness from Finger Print Bureau was also produced as a witness (PW-3). It was conclusively established that the thumb impression on the sale mutation was not hers.

4. The contention with regard to the belated filing of the suit, the respondent had stated in the plaint that she had learnt of the purported sale mutation three months earlier. We enquired from the learned counsel whether any evidence was produced to show that the respondent-plaintiff was aware about the sale mutation much before then, and we were not referred to anything. Issue No.4 pertained to limitation and the learned Judge had correctly noted that the onus to prove it lay upon the defendant. In attending to the issue of limitation the learned Judge determined that the defendant had not been able to establish prior knowledge.

5. All three courts had correctly decided the matter in accordance with the law and the two points urged by the learned counsel are not sustainable either in fact or in law. The courts had dealt charitably with the defendant-petitioners by not imposing costs, let alone substantial costs which in our opinion were merited. This error needs correction and we dismiss this petition with costs throughout. And, as the petitioners have remained in illegal possession of the said land we also impose compensatory cost in the sum of one hundred thousand rupees. The petitioners are further directed to immediately hand over the subject land to the respondent, and if they fail to do so the concerned revenue officer/official shall ensure that its possession is delivered to the respondent immediately. Copy of the order passed today be sent to the concerned revenue authority for information and compliance and copy be sent to the respondent for information.

Chief Justice

Judge

Judge

Islamabad:
20.11.2023
(Umair)

Approved for Reporting