

**IN THE SUPREME COURT OF PAKISTAN**

(Appellate Jurisdiction)

**Present**

Mr. Justice Yahya Afridi  
Mr. Justice Amin-ud-Din Khan  
Mrs. Justice Ayesha A. Malik

**Civil Appeals No.138-L & 139-L/2010**

*Against the judgment dated 21.02.2007  
passed by the Lahore High Court,  
Lahore in W.P.No.18465 of 2005 and  
W.P.No.18466 of 2005.*

*Muhammad Arshad (deceased) through LRs*

*..appellants*

**Versus**

*Bashir Ahmad (deceased) through LRs and others*

*Respondents*

For the appellants:

Mr. Junaid Anwar, ASC.  
Syed Rifaqat Hussain Shah,  
AOR.

For the respondents:

Mr. Tariq Ahmed Mian, ASC via  
video link from Lahore.

Date of Hearing:

08 May 2024

**ORDER**

**Amin-ud-Din Khan, J.** Leave was granted in this matter vide  
order dated 31.03.2010, which is reproduced:-

“Heard the learned counsel on behalf of the parties at length. There is divergence of views in the judgments whereby Section 24 of the Punjab Pre-emption Act, 1991 has been interpreted. The question as to whether the period of 30 days shall start from the date of institution of suit or from the order made by the learned trial court before expiring of 30 days as provided in Section 24 of Punjab Pre-emption Act, 1991 needs a thorough consideration and besides that it is also to be seen as to whether the principle as enumerated in General Clauses Act would be made applicable or otherwise? The learned ASC on behalf of petitioner has placed reliance on the following authorities:-

Mushtaq Hussain Shah v. Jewan (2007 MLD 1062),  
Fazal Elahi v. Noor Ahmad (PLD 2006 Lahore 318),

Imran Ahmad v. District Judge (2003 CLC 1597),  
Muhammad Jehangir v. Muhammad Abbas (2004  
CLC 538).

2. Leave to appeal is accordingly granted, which may be fixed at some early date.”

2. The matter is very short and simple one. The plaintiff-respondent filed a suit to pre-empt the sale of land in favour of appellant. The suit was filed on 12.06.2004. On the request of learned counsel for the plaintiff-respondent for preliminary hearing it was adjourned and fixed for 14.06.2004 as 13.06.2004 was holiday. The question is whether in the light of section 24 of the Punjab Pre-emption Act, 1991 “Zare Soim” was to be deposited within 30 days from the date of filing of the suit or from the date of order passed by the court. The learned trial court dismissed the application for rejection of the plaint filed under Order VII Rule 11 CPC but the learned revisional court accepted the revision petition and dismissed the suit on the ground that the plaintiff-respondent was bound to deposit 1/3<sup>rd</sup> of the sale consideration amount in the light of section 24(2) of the Punjab Pre-emption Act, 1991 within 30 days from the date of filing of the suit and as admittedly the 1/3<sup>rd</sup> amount was deposited after 30 days from the date of filing of the suit, therefore, the suit was not proceedable and the same was dismissed. The writ petition filed by the plaintiff-respondent against the said order of dismissal of suit by the learned revisional court was allowed through the judgment dated 21.02.2007, against which the petition for grant of leave was filed, leave was granted through the order mentioned supra. Hence, this appeal.

3. We have heard the learned counsel for the parties at length. We are clear in our mind that now it is settled that plaintiff was required



to deposit the 1/3<sup>rd</sup> amount within 30 days from the date of filing of suit. We have earlier decided this matter vide judgment which is reported as "Malik Tariq Mahmood and others versus Ghulam Ahmed and others" (PLD 2017 Supreme Court 674) and quote the relevant paragraph:

"However, through first proviso of the section ibid such discretion is circumscribed/restricted by a maximum of 30 days from the date of filing of the suit meaning thereby that the Court may require the pre-emptor to deposit the zar-e-soim within a period ranging from one day to thirty days but under no circumstances the Court is left with any power/discretion to allow the pre-emptor to make deposit of the zar-e-soim beyond the period of 30 days. The first proviso places a specific embargo/restriction on the powers of the Court from extending the time for deposit of zar-e-soim beyond the period of 30 days to be reckoned from the date of filing the suit."

Further reference can be made to a judgment of this Court reported as "Hasnain Nawaz Khan versus Ghulam Akbar and another" (PLD 2013 SC 489). Relevant paragraph of which is also reproduced:-

"It may further be relevant to mention here, that as the deposit within thirty days is the clear command of the law, therefore, even where the Court, on account of omission or the lapse, has failed to specify the time in this behalf, it shall be deemed that full 30 days period has been allowed by the Court to the plaintiff to make the payment and notwithstanding such omissions (lapse), it shall be the duty of the pre-emptor himself to make the deposit within a period of 30 days from the institution of the suit."

Reliance can also be further placed on "Hafiz Muhammad Ramzan versus Muhammad Bakhsh" (PLD 2012 Supreme Court 764), relevant paragraph is as under:-

"Thereafter, neither petitioner was left with any right to seek extension of statutory fixed time of 30 days, nor in law (under reference) it was permissible for the Court to grant any extension, because the Court under no circumstances has the jurisdiction and the authority to extend this statutory period of 30 days, because the power/discretion of the Court to extend time as

envisaged by section 148 of the C.P.C is only available to the Court, where the time has been fixed, by the Court itself or under the Code of Civil Procedure, but where the time for the performance of an act has been fixed by some other statute, the Court in terms of section 148, C.P.C. has no jurisdiction at all to enlarge and extend that time.”

In these circumstances, order impugned is not sustainable under the law. Learned revisional court rightly dismissed the suit under the valid provisions of law. These appeals are allowed. The order impugned is set aside and that of learned revisional court is restored. The suit of pre-emption filed by the plaintiff-respondent stands dismissed.

Islamabad

07 May 2024.

Mazhar Javed Bhatti

APPROVED FOR REPORTING.