

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

**MR. JUSTICE SARDAR TARIQ MASOOD**  
**MR. JUSTICE AMIN-UD-DIN KHAN**  
**MR. JUSTICE JAMAL KHAN MANDOKHAIL**

*AFR*  
**C.M.A. No.12587/2021 IN/AND C.P. No.5925 OF 2021**

Against the order dated 2.11.2021 passed by the Lahore High Court Lahore in Civil Revision No. 53868 of 2021.

***Eden Builders (Pvt) Limited, Lahore***

*...Applicant/Petitioner*

***Versus***

***Muhammad Aslam and others***

*...Respondents*

For the applicant/petitioner:

Mr. Hafeez Saeed Akhtar, ASC.  
Syed Rifaqat Hussain Shah,  
AOR.

For the respondents:

Mr. Shahid Mehmood Khan Khilji,  
ASC for respondent Nos. 1-3.

Date of Hearing:

13.09.2022

**ORDER**

**AMIN-UD-DIN KHAN, J:-** Through this petition filed under Article 185(3) of the Constitution of Islamic Republic of Pakistan, 1973 leave has been sought against the order dated 2.11.2021 whereby Civil Revision No. 53868 of 2021 filed by the petitioner was dismissed.

2. Notice was issued to the other side vide order dated 20.5.2022. We have heard the learned counsel for the parties at length and gone through the record as well as law applicable on the facts of this case with the able assistance of learned counsel for the parties.

3. A suit for cancellation of agreement etc. with multiple prayers was filed by respondent Nos. 1 to 3 against the petitioner as well as respondent Nos. 4 to 8 on 2.9.2019 in the court of Senior Civil Judge, Sargodha. Written statement was filed by the

petitioner/defendant No. 1 as well as an application for return of the plaint under Order VII Rule 10 of the CPC, pleading that in the agreement dated 19.7.2013 on the basis of which the suit has been filed, which is also an admitted document between the parties, clause 25 provides as follows:-

**“Jurisdiction:** The Court at Lahore shall have exclusive jurisdiction in respect of all matters relatable to this Agreement.”

The application was contested by the plaintiffs-respondents. The learned trial court was pleased to dismiss the same vide order dated 31.7.2021 which was challenged through a Civil Revision before the learned High Court which too was dismissed. Hence, the instant petition for leave to appeal.

4. Admittedly, the impugned agreement dated 19.7.2013 was arrived at between the parties at Lahore which basically relates to development by the petitioner of the land owned by the plaintiffs-respondent Nos. 1 to 3 and in furtherance of the said agreement there is an addendum dated 21.8.2013. On the basis of said agreements lands situated in Lahore as well as in Sargodha were exchanged through registered exchange deeds by or on behalf of the parties to the agreement. Learned counsel for the petitioner argues that the original agreement was signed at Lahore which contains Clause 25 whereby the parties agreed that exclusive jurisdiction will lie with the civil courts at Lahore in case of any dispute with regard to the agreement; that in furtherance of the original agreement the exchange deeds as guarantee for development work agreed to be done by the petitioner were to be executed; and that binding effect to the said agreement was given and exchange deeds for the properties situated at Lahore and Sargodha were got registered after execution in Lahore and Sargodha, therefore, the application filed by the

petitioner was to be accepted and both the learned courts below have ignored the legal position and the learned High Court failed to exercise jurisdiction vested in it by law, therefore, orders are not sustainable and leave to appeal be granted and while accepting the application under Order VII Rule 10 of the CPC appeal be allowed.

5. On the other hand, learned counsel for the respondents argues that though execution of original agreement and addendum as well as exchange deeds is not denied by the plaintiffs-respondents but the insertion of Clause 25 in the agreement was without the consent of the plaintiffs-respondents and further contends that while getting signed the addendum as well as exchange deeds a fraud has been committed by the petitioner-defendant No. 1, therefore, plaintiffs-respondent Nos. 1 to 3, the owners of the land, have filed the suit for cancellation of all the above said documents.

6. Signing of the original agreement at Lahore and inclusion of Clause 25 in it at the time of signatures is not denied. The case of the respondents-plaintiffs as argued by the learned counsel is that they are illiterate persons and they do not know the meaning of contents of agreement as well as addendum, therefore, they filed the suit for cancellation of the same. We are intentionally not discussing the merits of the case so that it may not prejudice the case of any of the parties as limited question for consideration by this Court is whether Clause 25 of the agreement – which confers exclusive jurisdiction to the civil court at Lahore – is binding upon the parties or not. It is a settled proposition of law that the parties cannot by agreement confer jurisdiction upon any court when otherwise the court has no jurisdiction. No doubt, a party cannot be restrained to enforce his right in ordinary court of law but if by mutual agreement between the parties a particular court having territorial and

pecuniary jurisdiction is selected for the determination of their dispute, there appears to be nothing wrong or illegal in it or opposed to public policy (Reference may be made to the case of **Messrs Kadir Motors (Regd). Rawalpindi v. Messrs National Motors Ltd., Karachi and 3 Others (1992 SCMR 1174)**). In this view of the matter, when the agreement was arrived at between the parties and signed at Lahore and in furtherance of agreement the addendum and exchange deeds were executed and registered at Lahore, the jurisdiction also in this matter was with both the courts i.e. at Sargodha where the suit was filed as well as at Lahore where the document was got registered and some of the property was situated. In this backdrop, Clause 25 of the agreement dated 19.7.2013 is binding upon the parties, therefore, the civil court at Lahore has exclusive jurisdiction to entertain and try the suit, therefore, this petition is converted into an appeal and is allowed. The order passed by the learned trial court dated 31.7.2021 as well as revisional court dated 2.11.2021 are set aside. The application moved by the petitioner under Order VII Rule 10 of the CPC is allowed. Plaint is returned to the plaintiffs-respondents and, if so advised, they may file in the civil court at Lahore.

Islamabad, the  
13<sup>th</sup> September, 2022  
(Mazhar Javed Bhatti)

APPROVED FOR REPORTING