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IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT: Mr. Justice Ejaz Afzal Khan
Mr. Justice Mazhar Alam Khan Miankhel

Civil Petition No.275/2016 and CMA No.815/2016
(Against the order dated 27.01.2016 passed by the Islamabad
High Court, Islamabad in C.R. No.210/14)

Mst. Azra Gulzar

Petitioner

Versus

Muhammad Farooq and another

Respondent

For the Petitioner:

Ch. Mushtaq Ahmed Khan, Sr. ASC
Syed Rifaqat Hussain Shah, AOR

For Respondent No.1:

Mr. Tahir Iqbal, ASC
Mr. Tariq Aziz, AOR

For Respondent No.2:

Hafiz Hifz ur Rehman, ASC
Raja Abdul Ghafoor, AOR

Date of Hearing:

7.03.2017

JUDGMENT

Mazhar Alam Khan Miankhel, J.- The petitioner through the instant petition has questioned the judgment dated 27.01.2016 whereby the learned Single Judge of the Islamabad High Court in its Chambers dismissed the civil revision of the petitioner and thereby upheld the judgment and decree dated 30.06.2014 of the Addl. District Judge-III (East), Islamabad who had allowed the appeal of Respondent No.1 and dismissed the suit of the petitioner by setting aside the judgment and decree dated 6.01.2014 of the Civil Judge, First Class, Islamabad East.

2. Learned counsel for the parties were heard and record of the case was perused. Perusal of the record would reveal that this case has a checkered history which revolves around a residential plot. The same allegedly was purchased by the petitioner but in the name of her real brother i.e. Respondent No.1 who was living with her at that time. The Respondent No.1

while shifting back to his native district i.e. *Okara* executed an irrevocable general power of attorney in favour of the petitioner who there upon entered into an agreement to sell with one Muhammad Javaid. The Respondent No.1 cancelled the said general power of attorney in favour of the petitioner which compelled the said Muhammad Javaid to file a suit for specific performance and thereafter a series of litigation started between husband of the petitioner and Respondent No.1. With the passage of time, the parties entered into a compromise and on the basis of the said compromise the civil as well as the criminal proceedings were withdrawn. Besides, Respondent No.1 also agreed to record his statement in favour of the petitioner for transfer of the said plot before the concerned forum and in this regard he also recorded his statement before the Court. However, thereafter, he once again refused to honor his commitment which led to the instant litigation between the parties.

3. After conclusion of the trial, the trial Court passed a decree in favour of the petitioner which was challenged by Respondent No.1 in appeal. The appellate Court while allowing the appeal set aside the judgment and decree in favour of the petitioner and dismissed her suit. The findings of appeal were questioned by the petitioner before the High Court by way of civil revision and the learned Judge in chambers upheld the findings of the appellate Court by dismissing the civil revision.

We have gone through the findings of the High Court and compelled to observe that the High Court while dismissing the revision petition neither did bother to appraise the entire evidence nor appreciate the points of law. In the case in hand, the fora below is at variance in their findings and in such like situation the High Court was supposed to give its findings after appraisal of the entire evidence but unfortunately such exercise has not been done by the High Court. The settled law in this regard is that revisional Court in such like situation has to re-appraise the entire evidence just to

determine as to findings of which Court were based on proper appraisal of evidence and appreciation of law. Our this view is fortified by a long chain of judgments of this Court i.e. Madan Gopal and 4 others Vs. Maran Bepari and 3 others (PLD 1969 SC 617), Alloo Vs. Sher Khan and others (PLD 1985 SC 382), Abbas Ali Shah and 5 others Vs. Ghulam Ali and another (2004 SCMR 1342), Abdul Aziz Vs. Khuda Dad Khan (2004 SCMR 1046), Karim Bakhsh through L.Rs. and others Vs. Jindwadda Shah and others (2005 SCMR 1518), Muhammad Din and others Vs. Mst. Naimat Bibi and others (2006 SCMR 586), Muhammad Hassan Vs. Khawaja Khalil ur Rehman (2007 SCMR 576) and Q.B.E. Insurance (International) Ltd. Vs. Jaffar Flour and Oil Mills Ltd. (2008 SCMR 1037).

3. In view of what has been discussed above, we are left with no option but to convert this petition into appeal and by allowing the same, set aside the impugned judgment and send the case back to the High Court for decision afresh in accordance with law. As the learned Single Judge handing down the impugned finding has already expressed his view, the revision petition be listed before some other learned Single Judge of the High Court.