

## Case Description



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in favour of the said respondent in respect of the disputed house. Normally that document is the proof of valid transfer in favour of the transferee. The only argument that could possibly be advanced against the transfer is that the house in question was declared as non-evacuee and had thereby gone out of compensation pool and therefore the Settlement authorities had lost jurisdiction in respect thereof. The transfer of the house being without jurisdiction was therefore void. As there was no such evidence on record, this argument was clearly no available to the learned counsel for the applicant.

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 In assertion his right over the disputed house by filing ejectment application in the Court of Rent Controller, the matter ultimately came up in appeal before the District Judge, where even the applicant was party to the litigation. The parties including the applicant entered into compromise. The compromise application has been produced as Exh. 33. It would appear from the application that the applicant Ishwardas had accepted the ownership of the respondent Mehrajuddin over the disputed house subject of course to the condition that the former would within three months from the date of application file suit to clear his title over disputed premises. In pursuance of that agreement between the parties he actually filed the suit but failed to establish his title both in the trial Court as well as in the appellate Court. Even in this Court he has not succeeded in his efforts to prove that he is the owner of the disputed house. Since Ishwardas has no locus standi, as he has failed to prove his ownership in respect of the disputed house, he is nobody to challenge the transfer of the house in favour of the respondent Mehrajuddin.

For above reasons, I see no merit in the revision application which is accordingly dismissed with no order as to costs.  
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Succession Act 1925--63 ,

Succession Act 1925 ----S. 63---Attestation of will---Will was required to be executed by two or more witnesses.--[Muhammadan Law].

Head Notes

Case Description

**Citation Name:** 1985 CLC 1385 KARACHI-HIGH-COURT-SINDH

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ISHWARDAS VS DEPUTY SETTLEMENT COMMISSIONER, NLIRPURKHAS

Evidence Act 1872--69 , Succession Act 1925--63 ,

Ss. 68 & 69--Succession Act (XXXIX of 1925), S. 63--Will--Proof of execution--Will purported to be executed in name of petitioner--Execution neither proved by attesting witness nor by handwriting and signature of person executing such document--Will, held, not proved in accordance with law and could not be used as evidence to show that it was executed in name of petitioner. [Will--Evidence].

Head Notes

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in favour of the said respondent in respect of the disputed house. Normally that document is the proof of valid transfer in favour of the transferee. The only argument that could possibly be advanced against the transfer is that the house in question was declared as non-evacuee and had thereby gone out of compensation pool and therefore the Settlement authorities had lost jurisdiction in respect thereof. The transfer of the house being without jurisdiction was therefore void. As there was no such evidence on record, this argument was clearly not available to the learned counsel for the applicant.

Moreover, when the respondent Mehrajuddin asserted his right over the disputed house by filing ejectment application in the Court of Rent Controller, the matter ultimately came up in appeal before the District Judge, where even the applicant was party to the litigation. The parties including the applicant entered into compromise. The compromise application has been produced as Exh. 33. It would appear from the application that the applicant Ishwardas had accepted the ownership of the respondent Mehrajuddin over the disputed house subject of course to the condition that the former would within three months from the date of application file suit to clear his title over disputed premises. In pursuance of that agreement between the parties he actually filed the suit but failed to establish his title both in the trial Court as well as in the appellate Court. Even in this Court he has not succeeded in his efforts to prove that he is the owner of the disputed house. Since Ishwardas has no locus standi, as he has failed to prove his ownership in respect of the disputed house, he is nobody to challenge the transfer of the house in favour of the respondent Mehrajuddin.

> Circular For above reasons, I see no merit in the revision application which is accordingly dismissed with no order as to costs.

M. Y. H. P. Q. dismissed.

> Notifications

### New Statutes

> Federal

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For above reasons, I see no merit in the revision application which is accordingly dismissed with no order as to costs.

M.Y.H. Petition dismissed.