

*Present: Abdul Kadir Shaikh, Naimuddin  
and Abdul Qadeer Chaudhry, 7J*

SAHEB KHAN through Legal Heirs---Appellant

versus

MUHAMMAD PANNAH---Respondent

Civil Appeal No.66-K of 1984, decided on 15th January, 1990

(On appeal from the judgment dated 14-4-1983 of the High Court of Sindh passed in Revision Application No.6/79).

(a) Civil Procedure Code (V of 1908)---

---S. 115---Constitution of Pakistan (1973), Art. 185(3)---Leave to appeal was granted to consider whether High Court was right in holding that revisional jurisdiction under section 115, Civil Procedure Code, 1908, was not attracted in the case and more particularly whether First Appellate Court acted in exercise of its jurisdiction illegally and with material irregularity affecting final decision on appeal before it.

(b) Civil Procedure Code (V of 1908)---

---S. 115---Revisional jurisdiction, exercise of---Where material document or material evidence was not duly considered, High Court could interfere in revision---Where First Appellate Court had based its decision on a wrong proposition of law, High Court in its revisional jurisdiction could interfere with it.

(c) Agreement--

---Execution---Attestation of agreement before Oath/Notary Public whether a legal necessity---Agreement to sell---Signatures of parties or witnesses--Agreement to sell need not have been signed by parties or witnesses in presence of Oath Commissioner/Notary Public or any other Officer or Authority.

(d) **Qanun-e-Shahadat (10 of 1984)**---

---Art. 2(1)(c)---Evidence---Minor discrepancy in the statement of plaintiff---Effect---Plaintiff could not have been non-suited on minor contradiction in his statements when such statements were recorded after several years.

(e) **Qanun-e-Shahadat (10 of 1984)**---

---Art. 84---Civil Procedure Code (V of 1908), S. 96---Comparison of signatures by First Appellate Court---First Appellate Court expressing different opinion than that of trial Court---Essentials---First Appellate Court was although empowered to compare signatures of a person with his admitted signatures, yet while expressing different opinion it should have pointed out as to where Trial Court was wrong or committed mistake in its opinion while comparing disputed signatures with admitted signatures.

Ali Akbar, Advocate-on-Record for Appellant.

Unman Ghani Rashid, Advocate Supreme Court and AA. Dastagir, Advocate-on-Record for Respondent.

Date of hearing: 15th January, 1990.