

2025 M L D 552

[Lahore]

Before Ch. Muhammad Iqbal, J

SHEHNAZ AKHTAR ZAHOOR CHEEMA and another---Petitioners

versus

The ADDITIONAL DISTRICT JUDGE and another---Respondents

Writ Petition No. 60039 of 2022, heard on 17th December, 2024.

Civil Procedure Code (V of 1908)---

---S. 20 (c)---Specific Relief Act (I of 1877), S. 12---Suit for recovery on basis of agreement---Territorial jurisdiction of the Court---Cause of action, arising of---Scope---In wake of objection regarding territorial jurisdiction of the Trial Court raised by defendants, Trial Court framed preliminary issue, however, the same was decided against the defendants---Defendants /petitioners filed constitutional petition as the District Court maintained the order passed by the Trial Court---Validity---Record revealed that Petitioner No.1 and respondent No.2 were spouses and their relations had gone strained and they instituted adversial litigations against each other---Petitioner No.1 (lady/wife) who was serving in Education Department, instituted suit for recovery of maintenance allowance etc. at Islamabad---Respondent No.2 (husband) filed a suit for recovery against petitioner as well as her real brother on the basis of a written agreement at Civil Court District Hafizabad ; he (respondent No.2) also filed a suit for declaration along with permanent injunction against the petitioner No. 1 before the Civil Court, Lahore, mentioning the address of petitioner No.1 as she was presently residing at Islamabad---Respondent No.2 himself submitted an application in respect of correct address of the petitioner No. 1 before the court where the suit for recovery was

MLD

pending by describing her address as that of Islamabad---
Petitioners were residents of Islamabad---Under S.20 (c) of Civil
Procedure Code, 1908, a suit can be filed within local limits of
whose jurisdiction the cause of action, wholly or in part, arises---
But perusal of the agreement-in-question showed that it
(agreement) did not contain any specific place at which the same
was executed and the alleged amount was paid---As such the orders
passed by the Courts below were patently illegal and not sustainable
in the eyes of law---High Court set-aside the impugned orders while
deciding the preliminary issue of territorial jurisdiction in favour of
the petitioners---Trial Court would return the plaint to respondent
No.2 for its presentation before the proper forum---Constitutional
petition was allowed accordingly. [pp. 554, 555] A, B & C

Nazim-ud-Din and others v. Sheikh Zia-ul-Qamar and others
2016 SCMR 24 ref.

Usman Nasir Awan for Petitioners.

Riaz Karim Qureshi for Respondent No. 2.

Date of hearing: 17th December, 2024.

JUDGMENT

CH. MUHAMMAD IQBAL, J.---Through this writ petition, the
petitioners have challenged the validity of order dated 10.05.2022,
passed by the learned Addl. District Judge, Hafizabad who dismissed the
revision petition of petitioners and upheld the order dated 15.03.2021
passed by the learned Civil Judge, Hafizabad.

2. Brief facts of the case as stated by the learned counsel for the
petitioners are that respondent No.2/Muhammad Aslam filed a suit
against the petitioner for recovery of Rs.1,70,00,000/- on the basis of
written agreement before the learned Senior Civil Judge, Hafizabad. The
petitioners filed written statement denying the allegations levelled in the
suit and contended that the suit has been filed as counterblast to the suits
of the petitioner in different Courts at Islamabad. The details whereof is
as under:-

1.	Suit for recovery of Maintenance Shehnaz Akhtar v. Muhammad Aslam instituted on 11.05.2017 decided on 28.04.2018	Before the learned Senior Civil Judge (East) Islamabad	The petitioner No.1 filed suit for maintenance against the respondent which was decreed in her favour
----	--	--	---

MLD

2.	Suit for Declaration and Recovery of Damages Shehnaz Akhtar v. Muhammad Aslam instituted on 24.10.2017	Before learned Senior Civil Judge (East) Islamabad	Petitioner No.1 filed suit for recovery of damages against the respondent, which is pending.
3.	Execution Petition Shehnaz Akhtar v. Muhammad Aslam.	Before learned Senior Civil Judge (East) Islamabad	Petitioner filed execution petition against the respondent for implementation of judgment dated 28.04.2018 which is pending.
4.	Suit for restitution of Conjugal Rights Muhammad Aslam v. Shehnaz Zahoor instituted on 06.07.2017	Before the learned Senior Civil Judge (East) Islamabad.	The respondent filed suit for restitution of conjugal rights which is pending.
5.	Appeal under Section 14 of the Family Court Act Muhammad Aslam v. Shehnaz Zahoor instituted on 22.05.2018	Before the learned Addl. District Judge (East) Islamabad	The respondent filed appeal against judgment dated 28.04.2018 which is pending.

The petitioner also raised objection regarding territorial jurisdiction of the trial court at Hafizabad to adjudicate the matter. The trial court treated the issue of jurisdiction, i.e. "whether this court has not territorial jurisdiction to adjudicate upon the matter? OPD" as preliminary issue and after hearing the parties decided the above said issue against the petitioner holding that the court at District Hafizabad has the jurisdiction to adjudicate the matter. The petitioners assailed the said order through filing Civil Revision which was dismissed by the Revisional Court vide order dated 10.05.2022. Hence, this writ petition.

3. Arguments heard, Record perused.

4. Petitioner No.1 and respondent No.2 are spouses and their relation has gone strained and they instituted adversarial litigations against each other. Petitioner No.1 who is serving in Education Department, instituted suit for recovery of maintenance allowance etc. at Islamabad. Respondent No.2 filed a suit for recovery of Rs.1,70,00,000/- against petitioner No.1 as well as her real brother on the basis of written

MLD

agreement dated '01.09.2016 at Civil Court. District Hafizabad. The respondent No.2 also filed a suit for declaration along with permanent injunction against the petitioner No.1 before the learned Senior Civil Judge, Lahore by mentioning the address of petitioner No.1 as House No.553, Block-D, Media Town, Islamabad. The ID Card of the petitioner appended with this petition also shows that she is presently residing at Media Town, House No.553, Street No.2 Sector-D, Islamabad. Respondent No.2 himself submitted an application in respect of correct address of the petitioner before the court where the suit for recovery is pending by describing her address i.e. House No.533, Block-D, Media Town, Islamabad. Petitioners are residents of Islamabad. Under Section 20 (c) of Civil Procedure Code, 1908, a suit can be filed within local limits of whose jurisdiction the cause of action, wholly or in part, arises. But perusal of the agreement shows that it (agreement) does not contain any specific place at which the same was executed and alleged amount was paid. As such the order passed by the court below are patently illegal and not sustainable in the eyes of law. A

5. The aforementioned facts and consistent law on the subject have blatantly escaped from consideration of the lower Courts who illegally passed the impugned order which suffer from perversity and misapplication of law and same being not sustainable are liable to be set aside. Reliance is placed on the case titled as Nazim-ud-Din. and others v. Sheikh. Zia-Ul-Qamar and others (2016 SCMR 24). B

6. In view of above, this writ petition is hereby allowed. Order dated 10.05.2022, passed by the learned Addl. District Judge, Hafizabad as well as order of the trial court dated 15.03.2021 are hereby set aside and preliminary issue of territorial jurisdiction is decided in favour of the petitioners. The trial court shall return the plaint to respondent No.2 for its presentation before the proper forum. C