

**IN THE COURT OF SHERAZ QAMAR,  
CIVIL JUDGE-II, TAKHT BHAI, DISTRICT MARDAN**

**CIVIL SUIT NO. 109/1 (Neem) OF 2024**

Date of institution..... 13.06.2023

Date of restoration ..... 13.11.2024

Date of decision.....24.01.2025

**1. Mesri Khan, 2. Shakir Khan, 3. Wali Khan sons of Gul Badin**  
r/o Mashkar Sari Toor Dher, Tehsil Takht Bhai, District Mardan  
------(Plaintiffs)

**VERSUS**

Haider Shah s/o Said Ahmad Shah r/o Mohallah Badshah Gul  
Korona, Pirsadi, Tehsil Takht Bhai, District Mardan  
------(Defendant)

**SUIT FOR SPECIFIC PERFORMANCE OF AGREEMENT AND  
PERMANENT INJUNCTION**

**JUDGMENT**  
**24.01.2025**

1. Through this judgment the court is going to dispose of instant suit filed by **Mesri Khan & others** against **Haider Shah** for specific performance of agreement No. 3105 dated 26.07.2022 and permanent injunction.
2. Precisely facts of the above captioned Civil suit as per plaint are that plaintiffs have purchased the landed property measuring 06 Kanals bearing Khata No. 498 as per Jamabandi pertaining to year 2009-2010, having boundaries as on eastern side property, on western side property, on southern side property and on northern side property situated at Mashkar Sari, Moza Pirsadi from defendant on the strength of sale deed No.3105 dated 26.07.2022; that in total property share of

plaintiffs No. 1 and 2 is equal while plaintiff No.3 is sharer to the extent of 1 Kanal, 6 Marlas & 6 Sarsai; that the suit property has been purchased in lieu of Rs. 40,00,000/- and the entire sale consideration was paid to the defendant. The plaintiffs sought attestation mutation/registry in their or in alternate recovery of Rs. 40,00,000/- with 20 % profit. The plaintiffs have also sought permanent injunction for restraining the defendant from forceful possession, mutation/registry in the name of others and interference in the suit property; that the defendant was asked repeatedly to record registry/mutation in the name of plaintiffs however, defendant initially used delaying tactics but now bluntly refused, hence instant suit.

3. Defendant was summoned through process of the court, who appeared before the court and submitted cognovit by admitting claim of the plaintiffs. In this connection his statement was also recorded overleaf of cognovit wherein he admitted claim of the plaintiffs and stated that if suit is decreed in favour of the plaintiffs he has got no objection. He exhibited cognovit as Ex.PA and copy of his CNIC as Ex.PB. as the plaintiffs had not submitted revenue record alongwith their plaint therefore, after submission of cognovit vide order sheet No.3 dated 26.06.2023 the learned predecessor-in-office issued directions with regard to submission of revenue record and deposit of court fee. Thereafter, plaintiff No.1 for himself and as special attorney for rest of the plaintiffs appeared and recorded his statement as PW.1 and Patwari Halqa also appeared and recorded his statement CW.1, who exhibited Fard Jamabandi in respect of Khata No.498 as Ex.CW.1/1 and Goshwara Malkiat as Ex.CW1/2. But after that plaintiffs are disappeared therefore, suit of the plaintiffs was dismissed in default vide order dated 24.09.2024. However, against the said order, the plaintiffs filed an application for the restoration

of the instant suit, which was allowed. The suit in hand was restored and registered with its number, Neem. Plaintiffs were directed to produce their remaining evidence.

4. In response to which plaintiffs produced the following witnesses.

**PLAINTIFFS EVIDENCE**

**PW. 3, Malik Farid Khan s/o Malik Hamid Khan (marginal witness)**, who appeared in the witness box and endorsed both his signature and that of the other witness on the sale deed as correct.

**PW. 4, Abdul Rauf s/o Abdul Ghafoor (marginal witness)**, who appeared in the witness box and endorsed both his signature and that of the other witness on the sale deed as correct.

**PW. 5, Abdul Rauf (petition writer)**, who appeared in the witness box and endorsed his hand writing as well as signatures and thumb impressions of parties and witness on the sale deed as correct.

5. Thereafter plaintiff closed their evidence.
6. Arguments of learned counsel for the plaintiffs heard and record perused.
7. Record shows that defendant has admitted claim of the plaintiffs by submitting cognovit and in this respect statement of the defendant was also recorded before court on 26.06.2023 overleaf of affidavit wherein he has admitted claim of the plaintiffs and has got no objection if the suit is decreed against him.
8. Keeping in view the cognovit submitted by the defendant coupled with statement of the defendant recorded before court, a consent decree is hereby passed in favour of the plaintiffs against the defendant. Registry/mutation on the strength of this consent decree shall be subject to payment of all government taxes. Moreso, this consent decree shall not

affect the rights of any other person who is not party to the suit.

9. Before parting with this order it is worth noting that the requisite court fee for the instant suit is Rs. 15,000/-, but the plaintiffs have only submitted court fee stamps of Rs. 10,000/-. Therefore, the plaintiff is directed to submit the remaining court fee to the tune of Rs. 5,000/- within 30 days of passing of the decree failing which his suit shall be treated as dismissed.
10. No order as to costs.
11. File be consigned to record room after its completion and compilation.

**Announced**  
24.01.2025

(Sheraz Qamar)  
Civil Judge-II, Takht Bhai

**CERTIFICATE**

Certified that this judgment consists of four (04) pages and each page has been signed by me after the necessary correction made therein.

(Sheraz Qamar)  
Civil Judge-II, Takht Bhai

**IN THE COURT OF SHERAZ QAMAR,  
CIVIL JUDGE-II, TAKHT BHAI, DISTRICT MARDAN**

**CIVIL SUIT NO. 109/1 (Neem) OF 2024**

Mesri Khan vs Haider Shah

**Order-----**

24.01.2025

1. Plaintiff No.1 for himself and as special attorney for rest of the plaintiffs alongwith counsel present. Defendant already submitted cognovit.
2. Arguments of learned counsel for the plaintiffs heard. Record perused.
3. Vide my detailed Judgment of today separately placed on file consisting upon **four (04)** pages, a consent decree is hereby passed in favour of the plaintiffs against the defendant. Registry/ mutation on the strength of this consent decree shall be subject to payment of all government taxes. Moreso, this consent decree shall not affect the rights of any other person who is not party to the suit.
4. Before parting with this order it is worth noting that the requisite court fee for the instant suit is Rs. 15,000/-, but the plaintiffs have only submitted court fee stamps of Rs. 10,000/-. Therefore, the plaintiff is directed to submit the remaining court fee to the tune of Rs. 5,000/- within 30 days of passing of the decree failing which his suit shall be treated as dismissed.
5. No order as to costs.
6. File be consigned to record room after its completion and compilation.

**Announced**

24.01.2025

**(Sheraz Qamar)**  
Civil Judge-II, Takht Bhai