

JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Civil Revision No.221 of 2016

Sheikh Muhammad Zulfiqar

Versus

Malik Sheraz Zafar and others

Petitioner by:- Mirza Muhammad Nazakat Baig,
Advocate.

Respondents by: Mr. Muhammad Ilyas Sheikh,
Advocate and Barrister Talha Ilyas
Sheikh for respondent No.1.

Syeda Rida-e-Batool and Ms. Shoeba
Akhter, Advocates for respondent
No.7/CDA.

Respondents No.2 to 6 proceeded *ex-
parte* [vide orders dated
10.11.2016 & 01.12.2016]

Dates of Hearing : 08.03.2023, 11.12.2023, 29.01.2024,
20.02.2024 & 05.08.2024

ARBAB MUHAMMAD TAHIR, J.:- The captioned Civil Revision Petition is directed by the petitioner, Sheikh Muhammad Zulfiqar (to be referred to as “**petitioner/first purchaser**”), against judgment dated 02.04.2016, whereby the Court of learned Additional District Judge-V, East-Islamabad, while accepting the appeal filed by respondent No.1 (Malik Sheraz Zafar) (to be referred to as “**respondent no.1/second purchaser**”) under Section 39 of the Arbitration Act, 1940 (to be referred to as “**the Act**”), set aside order dated 30.09.2015 passed by learned Civil Court in terms that the application filed by respondent no.1/second purchaser under Section 34 of the

Act would be deemed to have been accepted and the suit for specific performance etc. instituted by the petitioner/first purchaser shall remain stayed until the decision on respondent no.1/second purchaser's applications filed under Sections 14 and 17 of the Act. Through said order dated 30.09.2015, the learned Civil Court had turned down the application filed by respondent no.1/second purchaser under Section 34 of the Act.

02. The transient facts, which led to the filing of the captioned Civil Revision Petition are that respondent 2, Mst. Saeeda Gillani, respondent No.3, Mst. Bilqees Begum and Mrs. Jamila Begum [predecessor in interest of respondents No.4 to 6] ("to be collectively referred to as **"the owners"**) owned land measuring around 129 kanals and 10 marlas situated in Mauza Kartal, Pakhral Chak Amda Dhoke Sharaf, Tehsil and District Islamabad (to be referred to as **"suit land"**). The said suit land was acquired by respondent No.7/Capital Development Authority (hereinafter referred to as **"CDA"**) in the year 1969 and as per the terms of the CDA's Rehabilitation Policy, the owners were held entitled to an Agro Farm in Islamabad in lieu of the suit land.

03. Mrs. Jamila Begum passed away on 05.05.1999, whereafter on 28.05.1999, an application was moved by respondent no.4/Zafar Iqbal Rahat (to be referred to as **"Attorney"**) on behalf of respondent 2, Mst. Saeeda Jillani, and respondent No.3, Mst. Bilqees Begum ("to be referred to as **"allottees"**) to the CDA for allotment of an Agro Plot. According to CDA Board's decision dated 18.10.1999, the allottees were declared to be entitled for allotment of an Agro Plot. Hence, vide letter No.CDA/E&M-II/PVC-40/80/99/08 dated 06.01.2000, an offer for allotment of Agro Plot No.80 comprising of 2.79 acres situated in Orchard Permanent Nursery Scheme Murree Road, Islamabad (to be referred to as **"suit plot"**) was issued in favour of the allottees against payment of premium at the rate of 200/- per acre per annum. Furthermore, the allottees were called upon to deposit 25% of the total premium by 05.02.2000.

It is asserted that the Attorney being the real son of Mrs. Jamila Begum, sworn an affidavit to the effect that late Mrs. Jamila Begum had no objection on the allotment of a plot in favour of the allottees.

04. Mst. Bilqees Begum [respondent no.3] along with late Mrs. Jamila Begum executed registered General Power of Attorney on 15.01.1995, whereas Mst. Saeeda Gillani [respondent no.2] executed such an Attorney on 18.01.1995, (to be collectively referred to as “**GPAs**”), in favour of Attorney with respect to the entire rights of the suit land acquired by CDA.

FIRST AGREEMENT TO SELL:

05. In exercise of the authority vested in him through above-mentioned registered GPAs, the Attorney sold the rights of suit plot expected to be allotted to the donors of the GPAs to the petitioner/first purchaser vide sale agreement dated 26.05.1999 for a total sale consideration of Rs.16,00,000/-. An amount of Rs.50,000/- was paid by the petitioner/first purchaser to the Attorney through cheque bearing No.10755325 dated 26.05.1999 drawn on Muslim Commercial Bank, Aabpara Branch, Islamabad whereas the remaining sale consideration of Rs.15,50,000/- was agreed to be paid to the latter at the time of the transfer of plot in the name of the former and/or his nominee.

06. Since the allottees were not interested in Agro Plot No.80, they filed writ petition No.215 of 2000 before the Hon'ble Lahore High Court, Rawalpindi Bench titled as “Mst. Bilqees Begum vs. CDA” praying *inter alia* for a direction to the CDA to allot any other available, proper and plain plot in exchange of plot No.80. The said writ petition stood dismissed vide order dated 15.02.2005 with observation to approach the Court of plenary jurisdiction. Subsequently, on 20.08.2005, the allottees instituted a suit for declaration, mandatory and permanent injunction praying *inter alia* for a declaration to the effect that a decree be passed declaring them to be entitled for allotment of an alternative developed plot of equal size and value as the one

already allotted viz plot No.80 on Murree Road, Islamabad. Upon withdrawal of the said civil suit as well as on payment of 25% on account of the premium, the CDA issued another allotment letter in respect of Plot No.19 on 21.01.2010 in lieu of the earlier plot. Later on 26.01.2010, the allottees instituted yet another suit on exactly the same grounds on which the earlier suit was instituted coupled with an apprehension *qua* cancellation of the newly allotted plot i.e. Plot No.19. It ought to be mentioned that both the civil suits were instituted by the allottees through respondent no.1/second purchaser as their **“Special Attorney”**.

SECOND AGREEMENT TO SELL:-

07. As mentioned above, the petitioner/first purchaser having purchased the suit plot through agreement to sell dated 26.05.1999 from Attorney, further sold it to respondent no.1/second purchaser through agreement dated 30.07.2003 for a total sale consideration of Rs.85,00,000/-. As per the terms of the said agreement dated 30.07.2003, respondent no.1/second purchaser was obligated to pay Rs.23,00,000/- and/or any increase/decrease to the CDA. Furthermore, respondent no.1/second purchaser paid 50% of the balance consideration i.e. 31,00,000/- to the petitioner/first purchaser in the following manner:-

- i. Rs.30,00,000/- paid through Pay Order No.0317486 dated 30.07.2003 drawn on Allied Bank Limited, G-8 Markaz Branch, Islamabad.
- ii. Rs.1,00,000/- in cash.

08. Whereas the remaining 50% i.e. 31,00,000/- was to be paid to the petitioner/first purchaser within a period of three months from the date of signing/execution of said agreement dated 30.07.2003. According to the terms of the said agreement, the petitioner/first purchaser was bound to get an agreement to the extent of 50% ownership of the suit plot executed between the allottees and respondent no.1/second purchaser. It was also agreed upon that in case of failure, the

petitioner/first purchaser was also to return Rs.31,00,000/- to respondent no.1/second purchaser within 15 days.

09. Surprisingly, three days after the execution of agreement dated 30.07.2003 (i.e. the agreement between the petitioner/first purchaser and respondent no.1/second purchaser), the allottees yet again entered into an agreement to sell dated 02.08.2003, as **“First Party”** with petitioner/first purchaser and respondent no.1/second purchaser as **“Second Party”**. The allottees sold their rights again with respect to the suit plot/alternate plot to the Second Party at a profit of Rs.16,00,000/-. On the same day i.e. 02.08.2003, the allottees also executed a Special Power of Attorney in favour of the petitioner/first purchaser and respondent no.1/Second Purchaser.

10. After the execution of agreement to sell dated 02.08.2003 as well as the Special Power of Attorney [which was subsequently withdrawn on 30.01.2013] by the allottees in favour of petitioner/first purchaser and respondent no.1/second purchaser, the petitioner/first purchaser, on 06.03.2013 instituted a suit for specific performance of agreement dated 02.08.2003 along with mandatory & permanent injunction and possession of the suit plot. During the pendency of proceedings in the said suit, on 04.05.2013, respondent no.1/second purchaser filed an application under Section 34 of the Act with two fold prayers (i) to reject the plaint in the suit by invoking the provisions of Order VII, Rule 11 CPC and (ii) to stay the proceedings in the suit till the decision of arbitration proceedings pending in the Court of Shoaib Bilal Ranjha, Civil Judge, Islamabad-East. Vide order dated 30.09.2015, passed by learned civil court, the said petition was dismissed and so also the prayer to the extent of the rejection of the plaint in the suit.

11. The said order dated 30.09.2015 was assailed in an appeal filed under Section 39(i)(v) of the Act before the Court of the learned Additional District Judge-V, Islamabad-East, which

was allowed through impugned judgment dated 02.04.2016 hence, the captioned Civil Revision Petition.

Arguments of Mirza Muhammad Nazakat Baig, learned counsel for the petitioner/First Purchaser:-

12. That no arbitration clause existed in the agreement dated 02.08.2003 between the parties, which necessitated reference of the disputes to arbitration. That this pivotal aspect of the matter escaped notice of the learned appellate Court while allowing respondent no.1/second purchaser's application under Section 34 of the Act. That the essential pre-requisites for stay of proceedings in terms of Section 34 of the Act were not satisfied. That the objections filed by the petitioner/first purchaser were not considered by learned appellate court in their true perspective. That learned trial court had correctly dismissed respondent no.1/second purchaser's application under Section 34 of the Act. That in his application filed under Section 34 of the Act, respondent no.1/second purchaser did not make any assertion as to the existence of an arbitration clause in the agreement between the parties which necessitated the proceedings in the suit to be stayed. That the reasoning recorded by learned appellate court as to the acceptance of application filed by respondent no.1/second purchaser under Section 34 of the Act are such that could not be sustained in law. That order dated 30.09.2015 passed by learned trial court is based on correct appreciation of the evidence available on record. And that the impugned judgment and decree dated 02.04.2016 passed by learned appellate court suffers from jurisdictional infirmity thus not sustainable in law. Hence, the same be set aside, prayed learned counsel for petitioner/first purchaser. In order to supplement his arguments, learned counsel placed reliance on the judgments reported as 2013 CLC 434, 2013 CLC 522.

Arguments of Mr Muhammad Ilyas Sheikh, learned counsel for the respondent No.1/Second Purchaser:-

13. Mr. Muhammad Ilyas Sheikh, learned counsel representing respondent no.1/second purchaser, has vehemently controverted the contentions of learned counsel for petitioner/first purchaser by contending that on the basis of Power of Attorney, the petitioner/first purchaser executed sale agreement dated 30.07.2003 with respondent no.1/second purchaser and thereby sold the suit plot to him. That the petitioner/first purchaser also got managed the execution of sale agreement dated 02.08.2003 between the allottees and respondent no.1/second purchaser. That respondent no.1/second purchaser was informed that the suit plot was free from all encumbrances. That respondent no.1/second purchaser asked the petitioner/first purchaser to fulfill his contractual obligations under the sale agreement executed between them. That it was mutually decided by the parties to get the issues resolved through arbitration. That it was with consent of petitioner/first purchaser that the matter was referred to a two-member Arbitral Tribunal appointed by each party and thereafter the matter was mutually referred to the Umpire/Referee. That reference of dispute to arbitration was not objected to either by the allottees or by the petitioner/first purchaser. That the Arbitrators appointed by each party and the petitioner/first purchaser had sworn affidavits to the effect that the decision that were to be rendered by the Umpire/Referee shall be binding upon the parties.

ARGUMENTS HEARD. RECORD PERUSED.

14. That question for determination before this court is whether the application filed by respondent no.1/second purchaser under Section 34 of the Act was maintainable or not. As mentioned above, on 06.03.2013, the petitioner/first purchaser instituted a suit for specific performance of agreement dated 02.08.2003 along with mandatory and permanent injunction as well as possession of the suit plot.

During pendency of the said civil suit, respondent no.1/second purchaser filed an application under Section 34 of the Act praying *inter alia* for the proceedings in the said suit to be stayed.

15. It is well settled that a court before which the proceedings are pending, if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the arbitration agreement and that the applicant was, at the time when the proceedings were commenced, and still remains, ready and willing to do all things necessary to the proper conduct of arbitration such Court, may make an order staying the proceedings. Such powers of Court are discretionary in nature, which are spelled out in Section 34 of Act. It would thus be apposite to reproduce Section 34 of the said Act:-

"34. Power to stay legal proceedings where there is an arbitration agreement.

Where any party to an arbitration agreement or any person claiming under him commences any legal proceedings against any other party to the agreement or any person claiming under him in respect of any matter agreed to be referred, any party to such legal proceedings may, at any time before filing a written statement or taking any other steps in proceedings, apply to the judicial authority before which the proceedings are pending to stay the proceedings; and if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the arbitration agreement and that the applicant was, at the time when the proceedings were commenced, and still remains, ready and willing to do all things necessary to the proper conduct of the arbitration such authority, may make an order staying the proceedings."

(Emphasis is supplied)

16. From perusal of Section 34 *ibid*, it is obvious that for invoking Section 34 of the Act, it is mandatory that the following conditions ought to be fulfilled:-

- “i) The proceedings must have been commenced by a party to an arbitration agreement against any other

- party to the agreement.
- ii) The legal proceedings, which are sought to be stayed must be in respect of a matter agreed to be referred.
 - iii) The applicant for stay must be a party to the legal proceedings and he must have taken no step in the proceedings after appearance. It is also necessary that he should satisfy the Court not only that he is, but also was, at the commencement of the proceedings, ready and willing to do everything necessary for the proper conduct of the arbitration.
 - iv) The Court must be satisfied that there is no sufficient reason, why the matter should not be referred to an arbitration in accordance with the agreement.

17. It goes without saying that Section 34 of the Act has been enacted to make the arbitration agreements effective and prevent a party from going to the Court contrary to his/its own agreement. Where the parties have agreed to refer the disputes to arbitration, the Court should as far as possible, give an opportunity for resolution of the disputes through arbitration rather than by judicial adjudication. The powers vested in the court to grant stay under Section 34 of the Act are entirely a matter of discretion of the court. However, the court must not ignore to see that the parties are held to their bargain and promote the sanctity of the contracts/agreements. An application under Section 34 of the Act merits rejection when in such an application, there are no averments as to the applicant being ready and willing to have the disputes resolved through arbitration.

18. The court has jurisdiction to entertain the suit, however, the court in its discretion may stay the proceedings in the suit and also to consider whether the discretion should be exercised in a particular case or not. Section 34 of the Act does not make it obligatory on the court to necessarily refer the dispute to arbitration and may exercise the discretion to stay the proceedings if it is satisfied that there is no sufficient reason why the matter should not be referred to in accordance with the arbitration agreement.

19. An arbitration agreement is a contractual undertaking by which the parties agree to settle their dispute by way of arbitration rather than to proceed in court. Whenever, any dispute or difference arises relating to or arising from the arbitration agreement, any party to such agreement may apply to the court for stay of the proceedings by way of filing an application under Section 34 of the Act.

20. In Halsbury's Laws of England [at Pages 255-256, Fourth Edition, Volume-II], the terms of the 'Arbitration' and 'Award' have been explained in the following words:-

"An arbitration is the reference of a dispute or difference between not less than two parties for determination, after hearing both sides in a judicial manner, by a person or persons other than a court of competent jurisdiction. The persons to whom a reference to arbitration is made are called arbitrators. Where provision is made that in the event of disagreement between the arbitrators (usually in such case two in number) the dispute is to be referred to the decision of another, or third, person, such person is called the umpire. The decision of the arbitrator or umpire is called the award. The term "arbitration" is used in several senses. It may refer either to a judicial process or to a non-judicial process. A judicial process is concerned with the ascertainment, declaration and enforcement of rights and liabilities as they exist, in accordance with some recognized system of law. **The dispute or difference which the parties to an arbitration agreement agree to refer must consist of a justiciable issue triable civilly.**

(Emphasis is supplied)

21. Admittedly, the Court has ample power to exercise its discretion in terms of Section 34 of the Act to stay the legal proceedings provided that there has been a valid arbitration agreement, the proceedings in the court have been commenced, the application is made by a party to the proceedings before filing the written statement and or taking any other step in the pending proceedings and such a party is ready and willing to do all the acts necessary for the proper conduct of the arbitration.

22. The plain reading of Section 34 *ibid* further demonstrates its object which is meant for minimizing the agony of the parties

from facing protracted litigation by referring the matter to the Arbitrator. However, the court has to see if there are some reasons as to why the matter should not be referred to the arbitration in accordance with the agreement.

23. In the case of Farid Virani Vs. Feroz Virani (PLD 2013 Sindh 386), it was *inter alia* held as follows:-

“Section 34 of the Arbitration Act, 1940 relates to stay of proceedings brought before the Court in the subsistence of valid agreement of arbitration. **This Section aims at to make arbitration agreement effective and to prevent a party from going to Court contrary to his own agreement. Whether the provisions of this Section are attracted, the court may stay the proceedings requiring the matter to be referred to the Arbitration. In order to stay the legal proceedings it is necessary that the proceedings must have been commenced by a party to arbitration agreement against any other party to the agreement, the legal proceedings which are sought to be stayed must be in respect of a matter agreed to be referred**, the applicant for stay must be a party to the legal proceedings, the applicant must have taken no step in the proceedings after appearance, the applicant has to satisfy that he was not only at the time when the proceedings were commenced, but still ready and willing to do everything necessary for the proper conduct of the arbitration and the court must be satisfied that there is no sufficient reason why the matter should not be referred to arbitration.”

24. In the case titled Mrs. Rubby Hameedullah & others Vs. Dr. Arif & others (2010 YLR 3331) it was *inter alia* held that “if a person who has been a party to an arbitration agreement brings a suit ignoring that agreement, the defendant’s remedy, if he wants to rely on that agreement is to proceed under section 34 and to ask for stay of the suit. Section 34 creates an exception to the general law relating to procedure and empowers the Court with jurisdiction to decide the dispute or to refuse to do so in case of existence of an arbitration agreement. If in a contract there is a provision of resolution of dispute between the parties by way of arbitration and parties have agreed to such forum, then such

forum is to be resorted to and given preference before filing a suit. The implication of section 34 stipulates that when the party to an arbitration agreement commences any legal proceedings against any other party to the agreement for a dispute agreed to be decided through arbitration, it cannot pursue remedy through legal proceedings and the Court has power to stay the suit for a dispute agreed to be resolved by the parties through arbitration.

(Emphasis is supplied)

25. In the case titled Sqn. Ldr. (R.) Khurram Zaman vs. Mrs. Afia Zafar & others (2008 CLD 662), It was held by the Hon'ble Apex Court that *"needless to emphasize that where a party to an arbitration agreement starts legal proceedings with respect to the subject matter of such agreement, the other party has a right to get such proceedings stayed so as to enable arbitration to proceed in terms of the agreement."*

(Emphasis is supplied)

26. Now adverting to the objection of the learned counsel for the petitioner/first purchaser that in the agreement dated 02.08.2003, there was no arbitration clause, which mandatorily required the controversy to be resolved through arbitration. As mentioned above, on 06.03.2013, the petitioner/first purchaser instituted a suit for specific performance of agreement dated 02.08.2003 along with mandatory and permanent injunction etc. with the following prayer:-

"a). to pass a decree of Specific Performance of the agreement dated 02.08.2003 against the Defendants and transfer the suit plot in the name of Plaintiff extent to 50% share in the record of Defendant No.7. And Mandatory Injunction directing the Defendants to transfer the suit plot extent to 50% share in the name of the Plaintiff.

b) That the Defendants may be restrained permanently from transferring, alienating, mortgaging the suit plot in any manner what so ever. Any other relief which this Honourable Court deems just and proper may also be awarded."

27. It was asserted in the said suit, that the Attorney had agreed to sell the suit plot to the petitioner/first purchaser through sale agreement dated 26.05.1999 and the former received an amount of Rs.50,000/- as earnest money in respect of the suit plot. Furthermore, it was asserted that subsequently, the allottees had agreed to sell the suit plot to the petitioner/first purchaser and respondent no.1/second purchaser through agreement dated 02.08.2003. After the institution of the said civil suit, the learned civil court summoned the defendants in the suit so as to enable them to contest the said suit. In the meanwhile, respondent no.1/second purchaser moved an application under Section 34 of the Act on 04.05.2013 with the following twofold prayers:-

“It is, therefore, respectfully prayed that instant petition may graciously be accepted. The plaint be rejected under order VII Rule 11 C.P.C. or in alternative proceedings of the instant suit be stayed under Section 34 Arbitration Act till decision of arbitration proceedings pending in the court of Sohaib Bilal Ranjha Civil Judge Islamabad, East.”

28. The petitioner/first purchaser contested the said application by *inter alia* asserting that agreement dated 02.08.2003, the specific performance whereof was sought through the said civil suit, does not contain any arbitration clause, which necessitates reference of the matter to arbitration. Whereas, respondents no.2 to 4 (Mst. Saeeda Gillani, Mst. Bilqees Begum and Zafar Iqbal Rahat) filed their conceding written reply to respondent no.1/second purchaser’s application under Section 34 of the Act by pleading therein that they do not have an objection if the proceedings in the suit are stayed. The efforts to serve the allottees as well as the Attorney remained unsuccessful, hence they were proceeded against *ex-parte* through orders dated 10.11.2016 and 01.12.2016.

29. The petitioner/first purchaser’s case before the learned appellate court was as well as before this court is that the agreement dated 02.08.2003 does not contain any

arbitration clause providing for reference of the matter to arbitration. True, from perusal of the said agreement, it reveals that no arbitration clause exists in the said agreement, but suffice it to observe that the petitioner/first purchaser was seeking the specific performance of the said agreement which had been executed by the allottees in favour of the petitioner/first purchaser and respondent no.1/second purchaser. Additionally, the allottees amplified the scope of the said agreement dated 02.08.2003 by appointing both the petitioner/first purchaser as well as respondent no.1/second purchaser as their **“Special Attorneys”** through *“Mukhtar Nama”* dated 02.08.2003. According to the said *“Mukhtar Nama”*, the allottees had specifically authorized both the petitioner/first purchaser as well as respondent no.1/second purchaser to resolve their controversy with respect to the said agreement as and when arise between them through arbitration. In exercise of the said authority, the petitioner/first purchaser and respondent no.1 mutually agreed to refer the matter to arbitration. Since the petitioner/first purchaser and respondent no.1/second purchaser were expressly given the power by the allottees to settle their disputes arising from or related to the agreement dated 02.08.2003 through arbitration, therefore, the obvious mentioning of the arbitration clause in the said agreement is of least significance. Moreover, the allottees in reply to respondent no.1/second purchaser’s application under Section 34 had clearly pleaded that they did not have an objection as to the stay of the proceedings in the said suit. As such, as per this court’s view, the learned appellate court while allowing the application under Section 34 of the Act has committed no illegality.

30. Moreover, as per the record annexed with the instant appeal, *prima facie*, it appears that the petitioner/first purchaser and respondent no.1/second purchaser had already agreed to refer the dispute to arbitration and in this regard,

Qazi Rafi-ud-Din Babar, Advocate was mutually appointed as the Arbitrator/Umpire, who entered upon the reference and after fulfilling the codal formalities, rendered his award on 10.06.2010. Since the petitioner/first purchaser had already joined the arbitration proceedings by way of filing an objection petition under Section 30 of the Act on 26.03.2011, he cannot be permitted to take a stance to the effect that no arbitration clause exists in the agreement dated 02.08.2003. Had this been the case of petitioner/first purchaser from its very inception, he would not have stepped into the arbitration proceedings. Hence, the objection as regards the non-existence of the arbitration clause in the agreement 02.08.2003 is spurned.

31. As mentioned above, the petitioner/first purchaser filed the application under Section 34 of the Act on 04.05.2013 and by then, the arbitration award had already been announced on 10.06.2010 with respect to the subject matter of the very same suit plot. Furthermore, during pendency of the applications filed by respondent no.1/second purchaser under Sections 14 and 17 of the Act, the petitioner/first purchaser instituted the said civil suit for specific performance of agreement dated 02.08.2003. It is well settled that once the parties resort to arbitration in order to resolve their disputes, then they should wait for the final outcome of the arbitration proceedings.

32. Since the proceedings in the civil suits filed by either party with respect to the very same suit plot have culminated in the rendering of an arbitration award on 10.06.2010 which, this Court has been told, to have been made a rule of Court, hence two proceedings with respect to one and the same question regarding the same property cannot proceed simultaneously. Allowing such parallel proceedings would not just result in the rendering of conflicting decisions by two *fora* but also result in a loss prejudicial to either party. It is yet to be seen as to

whether the decree passed in terms of the said arbitration award would be executed or otherwise.

33. Needless to observe that although the Special Power of Attorneys executed in favour of the petitioner/first purchaser and respondent no.1/second purchaser were revoked by the allottees, but the same was done after (i) reference of the controversy to arbitration, (ii) the announcement of the award dated 10.06.2010 and (iii) filing of the applications under Section 14 and 17 of the Act.

34. Now it would be for the petitioner/first purchaser to raise all the grounds/objections taken in the present petition before the learned Executing Court, if he so desire.

35. In sequel to what has been discussed above, I do not find any illegality in the impugned judgment dated 02.04.2016 passed by learned appellate Court. Consequently, the present Civil Revision Petition is **dismissed**, leaving the parties to bear their own costs. Petition fails. **Dismissed.**

(ARBAB MUHAMMAD TAHIR)
JUDGE

Announced in the open Court on _____

JUDGE

Approved for reporting.