

O. S 92 of 2011

Bangladesh Form No. 3701

HIGH COURT FORM NO.J (2)

HEADING OF JUDGMENT IN ORIGINAL SUIT/CASE

DISTRICT- CHATTOGRAM

IN THE COURT OF SENIOR ASSISTANT JUDGE, 2ND COURT,

PATIYA, CHATTOGRAM

Present : Mr. Md. Hasan Zaman,

Senior Assistant Judge, Patiya, Chattogram.

Date of Delivery of Judgment : 31th day of October, 2024

Other Suit No. 92 of 2011

Bibi Safia and OthersPlaintiffs

-Versus-

Safar Mullok and OthersDefendants

This case came up for final hearing on 07/07/22, 20/10/22, 15/01/23, 17/08/23, 27/08/24, 26/10/23, 18/04/24, 20/05/24, 15/07/24 12/08/24.

In presence of :

Mrs. Muniruz Jahan MunniAdvocate for Plaintiff.

Mr. A.K.M Shajahan UddinAdvocate for Defendants.

And having stood for consideration to this day, the court delivered the following judgment:-

This is a suit for Specific performance of contract for sale.

Case of the Plaintiff

1. **Plaintiff's case in brief is that** the scheduled land described in the plaint is situated in Mouza Char Lokkha. The ownership of the land recorded in R.S. Khatian No. 24 was vested in Ashraf Ali through a recognized Kat-Mortgage. The ownership of Samina Khatun in R.S. Dag Nos. 2188, 2189, and 2193 of R.S. Khatian No. 24 was transferred to Ashraf Ali through a registered sale deed No. 1077 dated 04/07/1932. Subsequently, Abdul Rahman and Khalilur Rahman transferred their ownership in the scheduled land to Ashraf Ali through registered sale deed No. 4735 dated 07/12/1934. Thereafter, Ashraf Ali acquired further ownership of the said property by virtue of a registered agreement for sale

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(Bainanama) bearing No. 1727 dated 14/02/2010. Upon the demise of Ashraf Ali, his heirs, namely, his five sons (Achi Miah, Saleh Ahmad, Jebor Mullah, Safar Mullak, and Jalal Uddin), three daughters (Samehraz Khatun, Sakina Khatun, and Baro Ledhuni), and wife (Fulsana Khatun), succeeded to the property.

2. Subsequently, Safar Mullak transferred his entire share to one Md. Soleman through a registered Power of Attorney deed No. 1568 dated 10/02/2010. Soleman, by virtue of the said Power of Attorney, transferred the property to the plaintiffs through a registered agreement for sale (Bainama) No. 1727 dated 14/02/2010.

3. The plaintiff further submits that the suit land measuring 95 decimals under R.S. Dag Nos. 2192, 2193, 2194, and 2195 was acquired by Ashraf Ali through Kat-Mortgage. After his death, the said property was inherited by his heirs. Safar MullaK, one of the heirs, in an amicable partition with his mother and sister, acquired 16 decimals of land in the B.S. Dag Nos. 2981, 2980, 2990, and 2991, corresponding to the suit land. Safar Mullak executed a registered Power of Attorney deed No. 1568 dated 10/02/2010 in favor of Md. Soleman for the management and disposal of the property. Subsequently, Safar Mullak passed away. Thereafter, Soleman, acting as the lawful attorney, proposed to sell the suit property to the plaintiffs, to which the plaintiffs consented. Accordingly, a registered Bainama (agreement for sale) No. 1727 was executed on 14/02/2010, and an advance payment of Tk 4,00,000/- (Four Lakh Taka) was received by defendant No. 1 from the plaintiffs. As per the terms of the agreement, defendant No. 1 was obligated to execute and register the final sale deed in favor of the plaintiffs within one year upon receipt of the remaining balance.

4. Later, upon scrutiny of the Bainanama, the plaintiffs discovered that defendant No. 1 did not have ownership of 10 gonda of land as mentioned in the agreement but only 8 gonda. Consequently, a conciliatory meeting was held, where both parties agreed to deduct the value of the 2 gonda land and fix the total price of 8 gonda at BDT 4,00,000/-. It was also resolved that defendant No. 1 had received the entire consideration amount. However, despite repeated requests within the agreed timeframe, defendant No. 1 refused to execute and register the final sale deed. Finally, on 01/05/2011, defendant No. 1 completely denied the contract, compelling the plaintiffs to institute the present suit.

5. It is further case of the plaintiff that the statements made in the written statement of defendant No. 3 are entirely false, baseless, fabricated, and motivated by ill intent. The father of defendant No. 3, Safar Mullak, during his lifetime, duly executed and registered Power of Attorney deed No. 1568 dated 10/02/2010 in favor of defendant No. 1, Md. Soleman. By virtue of this authority, defendant No. 1 lawfully executed and registered the agreement for sale (Bainama) No. 1727 dated 14/02/2010 with the plaintiffs. Defendant No. 3 and other heirs of Safar Mullah were fully aware of the said Power of Attorney and the Bainama at all relevant times. However, in collusion with defendant No. 1, defendant

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No. 3 has filed a misleading and false statement with the malicious intent to deprive the plaintiffs of their legitimate claim.

Defendant's Case :

6. **The defendant No. 3 contested the suit by filing written Statement contending, *inter alia*, the disputed land originally belonged to Ashraf Ali. Upon his death, his heirs included his wife, son (Defendant No. 1), and daughter. After the demise of Ashraf Ali's wife, the heirs consisted of his son and daughter. Defendant No. 1, the son of Ashraf Ali, had possession and ownership rights over the disputed land and other properties. Upon his death, his heirs included his wife, Janaba Khatun, three sons—Rafiqul Anwar (Defendant No. 3), Shafiqul Anwar, and Mohammad Javed—and three daughters—Parveen Akhter, Parul Akhter, and Yasmin Akhter. Consequently, they inherited the property by succession and remained in possession and ownership thereof.**

7. The father of the defendants, Safar Mulluk, never executed a registered power of attorney bearing No. 1568, dated 10/02/2010, in favor of Mohammad Solaiman or any other individual. The purported power of attorney presented by the plaintiff is fraudulent, forged, and legally ineffective, being a creation of collusion between the plaintiffs and Mohammad Sulaiman. Since the defendants' father never appointed Mohammad Solaiman as his attorney, any transaction, including the alleged agreement for sale dated 14/02/2010 in favor of the plaintiffs, is fabricated, forged, and legally invalid. The defendants' father, as well as the defendants themselves, including their mother and siblings, are not bound by such a fraudulent document. The plaintiffs have no ownership or possession over the disputed land.

8. It is further case of defendant that their predecessor, Safar Mulluk, was an 84-year-old elderly man suffering from illness. Before his death, he was admitted to Chattogram Medical College Hospital for treatment. His two sons were residing abroad at the time. The defendants' father was financially stable and had no monetary constraints. He remained under treatment at Chattogram Medical College Hospital from 30/01/2010 to 07/02/2010 and was later discharged. On 08/02/2010, due to a further deterioration in his health, the defendant took him to a mental health specialist for treatment. On 10/02/2010, when his health condition worsened further, a neighbor, Mohammad Solaiman, deceitfully procured the alleged forged power of attorney by fraudulent means. In reality, on 08/02/2010, the defendants' father was so severely ill that he was unable to speak, which is duly recorded in the doctor's prescription. Thus, it is evident that the defendants' father neither executed nor approved any power of attorney.

9. Subsequently, upon learning about the fraudulent power of attorney, the defendants' father, along with witnesses, formally revoked and canceled the purported power of attorney on 14/02/2010. The revocation was duly executed and approved on 16/02/2010.

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Meanwhile, the plaintiffs and Mohammad Sulaiman, in furtherance of their fraudulent intentions, created an agreement for sale bearing No. 1727, dated 14/02/2010, based on the forged and illegal power of attorney. In response, the defendants' father filed a General Diary (GD) with the local police station and issued a legal notice to Mohammad Sulaiman on 16/03/2010. Furthermore, on 07/03/2010, he lodged another GD with the Metropolitan Magistrate Court and subsequently sought redress from the office of the Assistant Police Commissioner, Chattogram Port Zone, which summoned the plaintiffs and Mohammad Sulaiman for a hearing on 13/04/2010.

10. Following the demise of the defendants' father on 04/04/2010, the defendant appeared before the Police Commissioner's office, where a hearing was conducted, resulting in a report dated 22/04/2010 in favor of the defendants' father. Additionally, the defendants' father initiated a case before the Union Parishad challenging the fraudulent agreement for sale. Although the plaintiffs alleged in their pleading that the cause of action for their case arose on 01/05/2011 due to the refusal of the defendants' father to execute the sale deed, records confirm that Safar Mulluk passed away on 04/04/2010, as evidenced by the hospital-issued death certificate. Consequently, it is clear that the plaintiffs, relying on the forged power of attorney and fraudulent agreement for sale, seek to unlawfully usurp the defendants' property. Therefore, the plaintiffs' suit is liable to be dismissed with costs.

Issues:

11. From the rival pleadings of both the parties and considering the submissions of learned advocate of both the parties at the time of arguments, the following issues has been framed for proper adjudication of the case :

- 1) Whether the suit is maintainable in its present form and prayer?
- 2) Whether the plaintiffs have any cause of action for filing the suit ?
- 3) Whether the suit is barred by Limitation ?
- 4) Whether there was any valid agreement between the plaintiff and the defendant?
- 5) Whether the agreement between the plaintiff and the defendant is enforceable?
- 6) Whether the plaintiff is entitled to a decree for specific performance of the contract?

Discussions and Decisions:

12. To prove the plaint case, the plaintiff examined 02 witnesses namely **Haji Mohammad Yakub as P.W.1 and Md. Ishak as P.W.2** before this court. **During examination of P.W.1** the following documents were produced and proved, which have been marked as Exhibits:-

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Certified Copy of R.S. Khatian No. 24	Exhibit 1
Certified Copy of B.S. Khatian Nos. 1098/1030/129	Exhibit 2
Original Copy of Power of Attorney No. 1568, dated 10/02/2010	Exhibit 3
Original Copy of Bainama (Agreement for Sale), dated 14/02/2010	Exhibit-4
Certified Copy of Kabala Deed No. 1077, dated 04/07/1932 –	Exhibit 5
Certified Copy of Kabala Deed No. 4735, dated 07/11/1934 –	Exhibit 6
Certified Copy of Deed No. 1883, dated 16/02/2010	Exhibit 7
Original Copy of Arbitration Award, dated 30/11/2010	Exhibit 8

13. On the other hand, to prove the defendant's case, the defendants examined **02** witnesses namely **Md Rafiqul Anowar as D.W.1** and **Md. Yusuf as D.W.2** before the court. During examination of **D.W.1** the following documents were produced and proved, which have been marked as exhibits:-

1. C C of R.S. Khatian No. 24/21 of Char Lakkhya Mouza.	Exhibit-Ka (Series):
2. C C of B.S. Khatian No. 1098/1030/129	Exhibit-Kha (Series):
3. C C of the revocation of Power of Attorney No. 1883, dated 16/02/2010.	Exhibit-Ga
4. Certified copy of the Agreement for Sale (Baina Nama) No. 1727, dated 14/02/2010.	Exhibit-Gha
5. Certified copy of the Sale Deed (Kabla) No. 4735, dated 07/12/1934.	Exhibit-Uma
6. Certified copy of the Sale Deed (Kabla) No. 1077, dated 04/07/1932.	Exhibit-Cha
7. Certified copy of the Sale Deed (Kabla) No. 705, dated 07/06/1933.	Exhibit-Chha
8. Certified copies of the Sale Deed (Kabla) Nos. 422/424, dated 02/05/1933.	Exhibit-Ja
9. Copy of the legal notice dated 16/03/2010.	Exhibit-Jha
10. Original copy of the Birth Certificate dated 15/01/2008.	Exhibit-Nio

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11. Copy of Chattogram Medical College Hospital's discharge certificate, death certificate, and medical prescriptions of various dates.	Exhibit-Ta series
12. Copy of the General Diary (G.D.) recorded under Section 44 of the Code of Criminal Procedure at the Court of Chief Metropolitan Magistrate, dated 04/03/2010.	Exhibit Tha
13. : Copy of the complaint letter submitted to the Deputy Commissioner, dated 07/03/2010.	Exhibit-Da
14. : Copy of the complaint letter submitted to the Police Commissioner, dated 07/03/2010.	Exhibit-Dha
15. Copy of the application for protective custody submitted to the Metropolitan Police Commissioner, dated 24/03/2010.	Exhibit-Na
16. Copy of the complaint letter submitted to Karnaphuli Police Station, dated 27/03/2011.	Exhibit-Taw
17. Copy of the General Diary (G.D.) lodged at Karnaphuli Police Station, dated 18/02/2010.	Exhibit-Thaw
18. : Copy of the investigation report of Miscellaneous Case No. 808/2010.	Exhibit-Daw
19. Copy of the petition filed before the Village Court of No. 1 Char Lakkhya Union Parishad, dated 05/03/2010.	Exhibit-Dhaw
20. Copy of the necessary action report concerning the application submitted to the Police Commissioner, Bandar Police Station, dated 22/04/2010.	Exhibit-Naw

Decision with Reasons

14. Issue no. 1- 3

Whether the suit is maintainable in it's present form and prayer?

Whether the plaintiffs have any cause of action for filing the suit ?

Whether the suit is barred by limitation?

All these issues are taken up together for the sake of brevity and convenience.

The parties to the suit have not strongly presented any arguments or contentions regarding these matters. I have meticulously examined the pleadings and the evidence adduced in the

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case. The present suit has been instituted for specific performance of a contract based on the alleged breach of the registered Bainapatra (agreement for sale) bearing registration number 1727, dated **14/02/2010**, executed between the plaintiffs and the attorney of defendant no. 1, namely **Mohammad Soleman**, concerning the suit property. The suit property is situated in **Char Lakshya Mouza**, under **Karnaphuli Police Station**, previously under **Patiya**, in the **Chattogram District**.

The agreed consideration for the sale under the Bainapatra was **Tk. 4,00,000/-**, and the suit valuation falls within the local and pecuniary jurisdiction of this court. Since the disputed agreement for sale is duly registered, there exists no legal bar to filing the suit. The agreement was executed on **14/02/2010**, and on **01/05/2011**, defendant no. 1 refused to execute the sale deed. Subsequently, the present suit was instituted on **08/06/2011**. Hence, it appears that there arose valid cause of action and the suit has been filed within the prescribed period of limitation.

Since the instant suit is purely of a civil nature and no legal impediment exists in adjudicating the matter, I hold that the suit, in its present form and manner, is maintainable and not barred by limitation. Considering all aspects, the issues for determination are decided in favor of the plaintiffs.

15. **Issue No : 4 ,5 and 6**

Whether there was any valid agreement between the plaintiff and the defendant?

Whether the agreement between the plaintiff and the defendant is enforceable?

Whether the plaintiff is entitled to a decree for specific performance of the contract?

All these issues are taken up together for the sake of brevity and convenience. It is undisputed by both parties that the suit property, as described in the schedule, originally belonged to Safar Mulluk. The plaintiff claims that on 10.02.2010, Safar Mulluk executed a General Power of Attorney (GPA) through deed no. 1568, appointing Mohammad Soleiman as his lawful attorney. The certified copy of the said Power of Attorney, submitted as Exhibit-3, prima facie establishes its execution. Upon examination of Exhibit-3, it appears that the said instrument was a general Power of Attorney, authorizing Mohammad Soleiman to manage, sell, and undertake all necessary actions regarding the scheduled 10 Gonda (20 Satak) land.

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16. It is pertinent to note that no monetary consideration was transferred under the said Power of Attorney, as the document does not contain any recital regarding financial transactions. This suggests that the Power of Attorney was conferred upon Mohammad Soleiman without any pecuniary exchange, merely as an instrument of delegation of authority.

17. From Exhibit-4, it is evident that on 14.02.2010, Mohammad Soleiman, acting as the attorney of Safar Mulluk, executed a registered sale agreement (Bainanama) with his own brother, Haji Md. Ibrahim, the predecessor-in-interest of plaintiffs no. 1(ka)-1(cha), through deed no. 1727. A careful scrutiny of Exhibit-4 reveals that the agreed sale consideration for the land was determined at TK. 5,00,000/-, out of which Tk.T 4,00,000/- was paid in advance. The sale agreement stipulated that within one year from the date of execution, the remaining Tk. 1,00,000/- would be paid to the defendant No.1, and thereafter, a registered sale deed would be executed in favor of the plaintiff.

18. Conversely, the defendant's witness (DW-1) has categorically denied the execution of the alleged Power of Attorney and the subsequent sale agreement. The defendant contends that Safar Mulluk never executed any registered Power of Attorney in favor of Mohammad Soleiman on 10.02.2010. The defendants assert that the purported Power of Attorney is a forged, fabricated, and legally void instrument, allegedly created by the plaintiffs in collusion with Mohammad Soleiman. Since the alleged Power of Attorney itself is claimed to be fraudulent and nonexistent, the registered sale agreement dated 14.02.2010, executed on the strength of the said instrument, is also deemed to be a void and inoperative document.

19. The primary legal question arising from the dispute is the validity and authenticity of the Power of Attorney dated 10.02.2010. If the said Power of Attorney is proven to be genuine, then the sale agreement executed by Mohammad Soleiman on behalf of Safar Mulluk holds legal force, and the plaintiff may claim enforceability of the contract. However, if the Power of Attorney is established as fraudulent or void, then any transaction conducted under its authority, including the sale agreement, would be rendered null and void ab initio.

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20. It is a well-settled principle of law that a Power of Attorney must be executed voluntarily, with the free consent of the principal, and duly registered if it relates to immovable property transactions. The burden of proof rests upon the plaintiffs to establish the due execution of the Power of Attorney through cogent evidence. If the plaintiffs fail to substantiate the legitimacy of the instrument, the entire claim would collapse.

21. Though the plaintiff by way of oral and documentary evidence tried to establish the due execution of the Power of Attorney and the agreement for sale but the defendants have challenged the purported power of attorney document, asserting that it is forged, fraudulent, and legally ineffective. Upon examining the testimony of witness D.W.1, it is evident that the alleged donor, Safar Mulluk, was an 84-year-old elderly man who was physically unwell and suffering from mental instability. Furthermore, the medical discharge certificate issued by Chattogram Medical College Hospital, presented as **Exhibit-Ta**, establishes that Safar Mulluk was hospitalized for medical treatment from January 30, 2010, to February 7, 2010, which was prior to the execution of the said power of attorney.

22. According to the acknowledgment of witness D.W.1, his father, Safar Mulluk, fell ill again on February 8, 2010. At that time, the purported attorney, Soleman, a neighbor, allegedly took him to a doctor but, instead, fraudulently procured the execution of the disputed power of attorney. This acknowledgment suggests that although Safar Mulluk was elderly and physically unfit, the execution of the power of attorney did indeed take place. However, **Exhibit-Ga** indicates that on February 14, 2010, Safar Mulluk himself executed a revocation deed nullifying the power of attorney previously executed on February 10, 2010.

23. Notably, just four days after executing the power of attorney, Safar Mulluk revoked the document through a separate revocation deed. This raises serious doubts regarding the voluntary and independent consent of Safar Mulluk at the time of executing the power of attorney. Additionally, the absence of any family members of the donor as witnesses to the said document further suggests that the power of attorney was obtained with mala fide intent by the donee.

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24. Another crucial aspect supporting this claim is the urgency with which the donee, Soleman, executed a purported sale agreement with his own brother on February 14, 2010—the same day the power of attorney was revoked by Safar Mulluk. **Exhibit-Ga** further reveals that although the revocation deed was registered on February 16, 2010, it was executed on February 14, 2010. This implies that on the same day when the sale agreement was registered, Safar Mulluk was present at the Sub-Registrar's office for the registration of the revocation deed. Furthermore, neither Safar Mulluk nor any of his heirs appeared as witnesses in the purported sale agreement. The absence of their involvement in the transaction significantly undermines the legal validity and authenticity of the power of attorney.

25. The simultaneous execution of the revocation deed and the sale agreement strongly suggests collusion between the purported attorney, Soleman, and the plaintiff with the ulterior motive of misappropriating Safar Mulluk's property. The terms of the power of attorney indicate that no monetary consideration was exchanged between the donor and the donee. The plaintiff has asserted that, subsequently, an amount of TK 400,000 was paid to the father of defendant no. 3, Safar Mulluk, under the purported sale agreement. The sale agreement was executed by the attorney, Soleman, purportedly on behalf of Safar Mulluk.

26. However, even if such a transaction of Tk. 400,000 took place, it was exclusively between Mohammad Soleman and Mohammad Ibrahim. The plaintiff has failed to provide any substantive evidence to establish that Safar Mulluk himself received the said amount. It is implausible that Safar Mulluk would, on the same day, revoke the power of attorney while simultaneously accepting consideration for the sale of the same property. Therefore, the claim that Safar Mulluk received TK 400,000 as earnest money under the sale agreement lacks credibility and remains unsubstantiated by reliable evidence.

27. The plaintiff has attempted to establish the alleged transaction by submitting Arbitration Award marked as **Exhibit-8**. Upon reviewing **Exhibit-8**, it is observed that the said award designates Mohammad Ibrahim, the alleged buyer, as the first party, and on behalf of Safar Mulluk, the alleged seller, his power of attorney holder, Mohammad Soleman, as the second party. The award in question was executed on 30/11/2011.

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28. However, from the death certificate of Safar Mulluk submitted by the defendant and marked as **Exhibit-Ta(3)**, it is evident that Safar Mulluk passed away on 04/04/2010. The execution of an arbitration award through a settlement process after the death of Safar Mulluk raises serious doubts about its authenticity and credibility. Furthermore, no family members of Safar Mulluk have signed the purported award. The arbitration award appears to be fabricated, as it is an agreement solely between two brothers.

29. Moreover, **Exhibit-Dha** reveals that Safar Mulluk himself lodged a complaint with the Commissioner of Police, CMP, denying the alleged power of attorney and the contract of sale (Baynanama). **Exhibit-Tha** demonstrates that on 04/03/2010, Safar Mulluk also filed a General Diary (GD) before the Chief Metropolitan Magistrate Court, Chattogram, against the plaintiff and his associates. On the same day, he also submitted a complaint before the Deputy Commissioner. Ultimately, on 16/03/2010, he sent a legal notice [**Exhibit-Jha**] to the plaintiff and his brother, Mohammad Soleman. The steps taken by Safar Mulluk indicate that he did not receive any payment under the alleged Baynanama. If any monetary transaction indeed took place, it was between the power of attorney holder and his brother, the plaintiff, Mohammad Ibrahim.

30. Considering the overall circumstances, it is apparent that Mohammad Soleman exploited the old age of Safar Mulluk and procured a general power of attorney without consideration. Upon realizing this, Safar Mulluk revoked the said power of attorney within merely four days by executing a revocation deed. The fact that the revocation was made within such a short span of time suggests that the said power of attorney was not executed with the free consent of the principal. In the absence of free consent, such a transfer or contract shall be considered voidable. Since the said power of attorney was not an irrevocable instrument, it stands revoked upon the execution of the revocation deed, in my opinion.

31. Additionally, a legal issue arises regarding the alleged Baynanama. It appears from the Baynanama that out of the agreed consideration of Tk. 5,00,000, an amount of Tk. 4,00,000 was paid, while the remaining Tk. 1,00,000 remained unpaid. Although the plaintiff attempted to justify the consideration of Tk. 4,00,000 through the alleged

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arbitration award, such a claim is not substantiated by any registered document. Consequently, it is evident that an amount of Tk. 1,00,000 was still outstanding under the disputed Baynanama.

32. As per the provisions of **Section 21A(b)** of the Specific Relief Act, the plaintiff was required to deposit the outstanding amount at the time of instituting the suit to seek specific performance of the contract. Since the plaintiff failed to deposit the remaining amount of BDT 1,00,000 at the time of filing the suit, he is not entitled to a decree for specific performance of the contract under the provisions of law.

33. Based on the foregoing discussion, it is evident that the plaintiff has failed to establish the validity and authenticity of the Power of Attorney dated 10.02.2010. The execution of the Power of Attorney is seriously disputed, and the revocation deed executed by Safar Mulluk within four days raises substantial doubts regarding its voluntary nature. Furthermore, the absence of any direct evidence proving that Safar Mulluk received the sale consideration and the existence of multiple legal complaints filed by him against the alleged transaction further weaken the plaintiff's claim. Additionally, the plaintiff's failure to deposit the outstanding amount of Tk. 1,00,000 at the time of filing the suit, as required under Section 21A(b) of the Specific Relief Act, renders the suit legally untenable. In light of these findings, it is my considered view that the power of Attorney is not valid since it was not executed voluntarily and with free consent. Since it was revoked by subsequent revocation deed the Attorney has no right to enter into an agreement for sale with the plaintiff. Thus the plaintiff in no way is entitled to a decree for specific performance of agreement for sale.

34. Considering the above discussions, it appears that the plaintiff's agreement with defendant No. 1 is not enforceable. In this case, if a specific performance order is passed, the defendants No.3 and other family members would be severely prejudiced compared to the Plaintiffs. Upon overall consideration, it has been decided that the Plaintiff is not entitled to the desired remedy. In light of this, the issues in question have been resolved in disfavor of the plaintiffs.

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In result the suit failed.

Court fee paid is correct

Hence,

It is Ordered

that this suit for specific performance of the contract be dismissed on contest against the defendants No. 3 and ex-parte against other remaining defendants without any order as to costs.

Typed & Corrected by me

Md. Hasan Zaman
Senior Assistant Judge,
Senior Assistant Judge, 2ndCourt,
Patiya , Chattogram.

Md. Hasan Zaman
Senior Assistant Judge,
Senior Assistant Judge, 2ndCourt,
Patiya , Chattogram.