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ATTESTING WITNESS

ATTESTING WITNESS. One who, upon being required by the parties to an instrument, signs his name to it to prove it, and for the purpose of identification. 2. The witness must be desired by the parties to attest it, for unless this be done, he will not be an attesting witness, although he may have seen the parties execute it. 3 Campb. 232. See Competent witness; Credible witness; Disinterested witness; Respectable witness; Subscribing witness; and Witness; Witness instrumentary; 5 Watts, 399; 3 Bin. 194. and Witness; Witness instrumentary; 5 Watts, 399; 3 Bin. 194.

PLJ 2009 SC 423

[Appellate Jurisdiction]

Present: Nasir-ul Mulk & Mian Hamid Farooq, JJ.

Mst. NAGINA BEGUM--Appellant

versus

Mst. TAHZIM AKHTAR & others--Respondents

C.A. No. 1208 of 2007, decided on 22-1-2009.

(On appeal from the judgment dated 13-03-2007 of the Peshawar High Court, Peshawar, passed in R.F.A No. 48 of 2005)

Muhammadan Law--

----Gift--Ingredients--A gift by a Muslim would be completed, even if there is no writing and three ingredients i.e. (i) declaration of gift by the donor (ii) acceptance of gift expressly or impliedly by or on behalf of the donee; and (iii) delivery of possession of the subject matter by the donor to the donee are proved. [P. 427] D

Qanun-e-Shahadat Order, 1984 (10 of 1984)--

----Art. 79--Applicability--Proof of execution of document--Death of marginal witness--Principle--A litigant in order to prove a document is required to produce two attesting witnesses, if they are alive--If two attesting witnesses are not alive, then execution of a document could be proved by producing other admissible evidence. [P. 427] E

Qanun-e-Shahadat Order, 1984 (10 of 1984)--

----Art. 79--Document to be attested by two witness--Validity--If a document is required by law to be attested, it shall not be used as evidence until two attesting witnesses have been called for for purpose of proving its execution.

[P. 426] A

Gift-Deed--

----Document--Attested by two witnesses--Declaration of gift cannot be as gift-deed--Validity--Gift-deed is a document, which is compulsorily required by law to be attested by two witnesses, but it is equally true that declaration of gift cannot be termed as gift-deed. [P. 426] B

Muhammadian Law--

----Gift by a muslim--Ingredients--Under the Muhammeden Law a gift by a Muslim would be complete, if a person proved the three necessary and inseparable ingredients, (i) declaration by donor, (ii) acceptance of gift by donee and delivery of possession under gift.

[P. 426] C

Transfer of Property Act, 1882 (V of 1882)--

----Ss. 123 & 129--Registration Act, (XVI of 1908) S. 17--Held: Purpose of making a gift of an immovable property, the transfer must be effected by a registered instrument signed by or on behalf of the donor, and attested by at least two witnesses, yet Section 129 of Transfer of Property Act, provides that sections relating to gifts shall not affect any rule of Muhammeden Law. [P. 428] F

[P. 428] F

Transfer of Property Act, 1882 (V of 1882)--

----Ss. 123 & 129--Registration Act, (XVI of 1908) S. 17--Gift--Applicability--A gift by a Muslim can be completed even without any writing and such gifts are expressly excluded from the operation of the Transfer of Property Act. [P. 428] G

[P. 428] G

Mr. Shakeel Ahmed, ASC and Mir Adnan Khan, AOR for Appellant.

Ms. Nahida Mehboob Elahi, ASC for Respondents No. 1-6.

Date of hearing: 22.1.2009.

Judgment

Mian Hamid Farooq, J.--Instant direct appeal, under Article 185 (2)(d) of the Constitution of Islamic Republic of Pakistan, proceeds against the judgment dated 13.03.2007, whereby the learned Peshawar High Court, Abbottabad Bench partially allowed the appeal (RFA No. 48 of 2005) filed by Tahzim Akhtar and others.

2. The facts of the case comprehensively capitulated in the impugned judgment are reproduced below:--

"2. The controversy relates to a house measuring 7 marlas and a piece of land adjacent thereto which also measures 7 marlas. This property being 14 marlas was owned by Abdur Razaq Defendant No. 1. The plaintiffs/appellants and the proforma Defendant/Respondent No. 3 are the legal heirs of the said Abdur

Razaq. The plaintiffs instituted a suit on 5.9.2002 for the declaration that they were the owners in possession of the said house on the basis of a gift deed dated 2.9.1998 and that the registered Deed No. 596 whereby the said Abdur Razaq (Defendant No. 1) allegedly transferred the suit property to the Defendant No. 2 Mst. Nageena Bibi was wrong, fictitious, fraudulent, illegal and ineffective on the rights of plaintiffs. There was also a prayer for the cancellation of the said registered deed. In the alternative a prayer for possession of the house by the cancellation of the said deed dated 3.8.2002 was made, if during the pendency of the case the defendants dispossess the plaintiffs of the said house. This suit was contested by a written statement of the Defendant No. 2 dated 11.11.2002 and subsequently the said Defendant No. 2 (now Respondent No. 1) instituted a suit for restoration of the possession under Section 9 of the Specific Relief Act on 21.2.2003 and consequential thereto the suit for possession on the basis of the said registered documents and in the alternative the suit for recovery of the said transaction with damages was moved. In the body of the said plaint it was alleged that the Defendant No. 1 Abdur Razaq had sold the suit property by a registered deed attested on 6.8.2002 on receipt of the sale consideration of Rs.5,00,000/- and he inducted the plaintiff Mst. Nageena Bibi into possession of the house but the defendant allegedly took forceful possession by breaking the lock on 3.9.2002 and, therefore, a criminal case vide F.I.R. No. 144 dated 3.9.2002 has been registered against them. Hence it was prayed that the possession be restored.

If the dispossession was not made a decree for possession be granted and in the alternative the relief as stated hereinabove be granted. Both the suits were consolidated by the learned trial Court and consolidated issues were framed. After recording the evidence the learned Civil Judge passed the impugned decree on 16.4.2005."

The learned trial Court dismissed the suit (Suit No. 96/1 of 2002) filed by Mst. Tahzim Akhtar & others and decreed appellant's suit (Suit No. 17/1 of 2003) only to the extent of reliefs Alaf () and Bai (), while rest of the claims of the appellant/plaintiff were rejected, vide consolidated judgment and decrees dated 16.04.2005. Mst. Tahzim Akhtar & others filed the appeal (RFA No. 48 of 2005) and the learned single Judge in Chambers decided it in the following manner:--

"12. Hence this appeal is partly allowed. The impugned judgment and decree of the learned trial Court is set aside and instead of decree for possession, the decree of the alternative prayer of recovery of sale consideration and cost of sale to the extent of Rs.5,32,500/- is granted in favour of Mst. Nageena Bibi respondent/plaintiff of Suit No. 17/1 of 2003 against Abdul Razaq Defendant-Respondent No. 2. No order as to costs.

Hence the present appeal.

3. Learned counsel for the appellant, while referring to Article 79 of the Qanun-e-Shahadat Order, 1984, stated that Respondents No. 1 to 6, in order to prove

the gift deed, were required to produce two witnesses, but they only produced one of the marginal witnesses (Muhammad Manzoor) and failed to adduce in evidence the other marginal witness (Sadiq Shah) and the scribe. He, in view of Section 123 of the Transfer of Property Act, 1882, submitted that the gift deed was compulsorily registerable under Section 17 of the Registration Act, 1908 and as it was not registered, therefore, it did not confer any right and title upon the donees. He referred to "Allah Diwaya v. Ghulam Fatima (PLD 2008 Supreme Court 73)". His next contention was that Mst. Tahzim Akhtar & others in their suit did not challenge the sale-deed dated 06.08.2002 in appellant's favour, which will go to show that the respondents acknowledged the correctness of the sale-deed. He added that the appellant, as an alternative relief, claimed the consideration price of the sale-deed, expenses and a sum of Rs.5,00,000/- as damages, but the learned High Court only awarded sale consideration and costs of sale to the extent of Rs.5,32,500/-, and the amount of damages was not granted to the appellant, for which she is entitled. Conversely, learned counsel representing Respondents No. 1 to 6, submitted that Section 79 of the Qanun-e-Shahadat Order, 1984 is not applicable in this case, as declaration of gift does not require to be attested by two witnesses and the respondents/plaintiffs proved execution of declaration of gift by producing one of the witnesses, which was supported by the statement of the plaintiff, and the other witness namely Sadiq Shah had already died. She, while relying upon "Maulvi Abdullah v. Abdul Aziz (1987 SCMR 1403)", contended that gift under the Islamic Law is recognized and the plaintiffs proved that Abdul Razaq validly gifted the property to Respondents No. 1 to 6. As regards the alternative claim of the appellant, her stance is that the claim of damages was neither pleaded, in detail, in the plaint by the appellant, nor substantiated by evidence, therefore, it was rightly declined by the learned High Court.

4. We have heard the learned counsel and examined the available record. Section 79 of the Qanun-e-Shahadat Order, 1984 prescribes that if a document is required by law to be attested, it shall not be used as evidence until two attesting witnesses have been called for the purpose of proving its execution, if there be two attesting witnesses alive. A bare examination of the contents and title of the said document (Exh:PW.3/1), amply manifests that the said document is not a gift deed but a declaration of gift evidencing the factum of gift. A declaration of gift cannot be equated with a gift deed, which has different dimensions and parameters as compared to the former. It is true that gift deed is a document, which is compulsorily required by law to be attested by two witnesses, but it is equally true that in the instant case the declaration of gift cannot be termed as gift deed. According to the showings of Respondents No. 1 to 6, Respondent No. 7 gifted the property to his wife, sons and daughters under the Muhammadan Law and the said declaration of gift only established that in fact the gift was made. There is no cavil to the proposition that under the Muhammadan Law a gift by a Muslim would be complete, if a person proved the

three necessary and inseparable ingredients i.e. (i) declaration/offer by the donor; (ii) acceptance of gift by the donee; and (iii) delivery of possession under the gift. It has been held by this Court in the case of Maulvi Abdullah (ibid), relied upon by the learned counsel for the respondents, that a gift by a Muslim would be complete, even if there is no writing and three ingredients i.e. (i) declaration of gift by the donor; (ii) acceptance of gift expressly or impliedly by or on behalf of the donee; and (iii) delivery of possession of the subject-matter by the donor to the donee are proved. Declaration of gift (Ex.PW.3/1) shows that Respondent No. 7 out of love and affection offered his wife and children to gift the property to them, which offer was accepted by Respondents No. 1 to 6, inasmuch as, the possession was transferred under the gift. Not only this but all the donees also in token of acceptance of the offer of gift and taking over the possession of the questioned property affixed their signatures on the declaration of gift. Besides, the said document was witnessed by Sadiq Shah and Muhammad Manzoor. Thus, all the ingredients necessary for completion of a valid gift under the Muhammadan Law were fulfilled and it cannot be argued that no valid gift was made. In view whereof, the gift under the Muhammadan Law was complete in favour of Respondents No. 1 to 6. Assuming, as per the contention of the learned counsel, that declaration of gift (Ex.PW.3/1) was necessarily required to be attested by two witnesses, we have noticed that the said document is witnessed by two witnesses namely Sadiq Shah and Muhammad Manzoor, out of whom Muhammad Manzoor appeared as PW.4 and supported the claim of Respondents No. 1 to 6. The other witness Sadiq Shah could not be produced in evidence, as he was dead at the time of recording of the evidence. It has been proved on record, through the statements of Respondent No. 1 (PW.3) and Muhammad Manzoor (PW.4) that Sadiq Shah had already died, which fact was not disputed by the appellant, who failed to bring on record any evidence to rebut the statements of PW.3 & PW.4 on this material point. PW.4, who is one of the witnesses of the document, has fully supported the claim of Respondents No. 1 to 6. According to Section 79 of the Qanun-e-Shahadat Order, 1984, a litigant in order to prove a document is required to produce two attesting witnesses, if they are alive. It flows therefrom that if two attesting witnesses are not alive, then execution of a document could be proved by producing other admissible evidence. Even if it be taken that Section 79 of the Qanun-e-Shahadat Order, 1984 is applicable in the case in view of demise of Sadiq Shah, one of the witnesses of the document, it was not possible for the respondents to produce the second witness. Respondents No. 1 to 6 by producing one of the witnesses of the document coupled with the statement of Respondent No. 1, under the circumstances of the case in hand, have proved the execution of declaration of gift.

5. Now adverting to the next contention of the learned counsel. Although, Section 123 of the Transfer of Property Act, 1882, referred to by learned counsel for the appellant, does provide that for the purposes of making a gift of an

immovable property, the transfer must be effected by a registered instrument signed by or on behalf of the donor, and attested by at least two witnesses, yet Section 129 of the Act provides that this Chapter relating to gifts (Sections 122 to 128) shall not affect any rule of Muhammadan Law, which provision of law is a complete answer to the contention raised by learned counsel for the appellant. This Court in Maulvi Abdullah's case (ibid), while dealing with Sections 123 and 129 of the Transfer of Property Act, 1882 has held that a gift by a Muslim can be completed even without any writing and such gifts are expressly excluded from the operation of the Transfer of Property Act. It appears appropriate to reproduce the relevant portion of the judgment, which reads as under:--

"An objection based on Section 123 of the Transfer of Property Act to the effect that a gift of an immovable property cannot be made except through a registered instrument was raised but it was repelled with reference to Section 129 of the Act which provided that nothing in the chapter in which Section 123 fell would affect any rule of Muslim Law. It was held that according to Muslim Law an oral gift of an immovable property could be made provided other conditions for a Muslim gift were satisfied."

In view of Section 129 of the Transfer of Property Act, 1882, as interpreted by this Court in the case of Maulvi Abdullah (ibid), the contention of the learned counsel is devoid of any consideration.

6. As regards the case of Allah Diwaya (ibid) relied upon by the learned counsel for the appellant, to contend that gift deed was compulsorily registerable under Section 17 of the Registration Act, 1908, suffice it to say that in that case this Court has held that, "The dictum as laid down in Maulvi Abdullah's case (supra) cannot be made applicable in this case because the facts in both the cases are quite distinguishable". We have observed that in the case of Allah Diwaya (ibid) the gift could not be proved, while in the case in hand Respondents No. 1 to 6 proved the gift and execution of declaration of gift. In view whereof, the case of Allah Diwaya (ibid) is of no help to the appellant.

7. Now coming to the next contention of the learned counsel. It has been alleged that Respondents No. 1 to 6, the donees, in their suit did not challenge the sale-deed dated 06.08.2002 in appellant's favour. We have examined the contents of the plaint and find that Respondents No. 1 to 6/plaintiffs specifically sought declaration qua sale-deed dated 03.08.2002, labeling it as illegal, forged, fictitious and mala-fide. The said contention appears to have been raised without perusing the contents of the plaint.

8. As regards the claim of damages, although the appellant, as an alternative relief, claimed damages amounting to Rs.5,00,000/-, yet no details regarding the amount of damages were given in the plaint. We have examined the evidence on record and found that the appellant could not prove that she has sustained any sort of damages. No evidence was led by the appellant to prove the quantum of damages and thus her claim for damages was rightly rejected by both the Courts. It may be noted that the learned trial Court also disallowed appellant's

claim of damages and the appellant did not file any appeal or cross-objection against the judgment dated 16.04.2005 or challenged the findings on the issues, which were decided against her. We noticed that no issue on the question of damages was framed by the learned trial Court.

9. In the above perspective, we have examined the impugned judgment and find that the same does not suffer from any legal infirmity. The learned single Judge in Chambers rightly reversed the findings of the learned trial Court and while striking a balance between the parties on the one hand decreed the suit filed by Respondents No. 1 to 6, and on the other hand granted the alternative relief to the appellant for refund of sale consideration of Rs.5,00,000/-, alongwith the amount incurred on transfer thereof amounting to Rs.32,500/-. No misreading or non-reading of evidence on record has been pointed out by the learned counsel for the appellant, which could persuade us to interfere in the impugned judgment, which is hereby maintained.

10. For the foregoing reasons, the present appeal, being devoid of merits, stands dismissed with no order as to costs.

(W.I.B.) Appeal dismissed.

Citation Name: PLJ 2010 Sh.C-AJ&K 1	
Appellant Side: PARVEEN NAZ & another	
<i>V e r s u s</i>	
Opponent Side: CH. MAQBOOL AHMAD and 4 others	
Judge Name: Iftikhar Hussain Butt	
Judgment Result: Appeal dismissed	
Other Law Journal References:	
----suit for jactitation of marriage was dismissed for want of proof--suit for restitution of conjugal right was decreed--challenge to--controversy between the parties--question of--whether appellant was married or not--burden to prove--non-production of attesting witnesses--non-availability of nikahnama or attesting witnesses of `nikahnama' will not adversely affect the case of respondent in peculiar facts and circumstances of the case, which is otherwise abundantly proved.	
Head Notes	Full Case Description
To view full case click on Full Case Description	
Displaying Results for Attesting witnesses	
Citation Name: PLJ 2010 Lahore High Court 245	
Appellant Side: ABDUL SATTAR and another	

V e r s u s	
Opponent Side: MUHAMMAD IQBAL	
Judge Name: Syed Asghar Haider	
Judgment Result: Appeals dismissed	
Other Law Journal References:	
----arts. 79 & 95--principle of "lex situs" the requirements as enunciated in pakistan, under the power of attorney act, 1882 and arts. 79 and 95 of qanun-e-shahadat order, 1984, have to be examined--these requirements incidentally are not violative of english jurisprudence or law but, infact, are in harmony with them--if a document is required to be attested by law, it shall not be used as evidence until two attesting witnesses, at least have been called for the purpose of proving its execution--there is nothing on record to prove the due execution of power of attorney in england as required and stated--this condition is further qualified by art. 95 of qanun-e-shahadat order, 1984, it states that every power of attorney executed should be certified and authenticated by a notary public or any court, judge, magistrate, counsel or vice counsel or representative of the federal government.	
Head Notes	Full Case Description
To view full case click on Full Case Description	

Displaying Results for Attesting witnesses	
Citation Name: PLJ 2009 Karachi High Court 222	
Appellant Side: Syed ABDULLAH ABIDI	
V e r s u s	
Opponent Side: Mst. HAJRA ABIDI and another	
Judge Name: Zafar Ahmed Khan Sherwani	
Judgment Result: Suit dismissed.	
Other Law Journal References:	
----ss. 123 & 129--gift under statutory law and islamic law--distinction stated-- requirement of a valid gift are somehow different as compared to statutory law as provided u/s. 123 of the transfer of property act, 1882, under which execution of such document in presence of two attesting witnesses is mandatory besides its registration--however, s. 129 of the act is an exception to the same--in islamic law, only such voluntary declaration in express terms with transfer of possession from	

the donor in favour of the donee and the acceptance by the donee are sufficient to fulfil all requirements of a valid gift hiba--however, the only exception to that rule is that the donor must not be suffering from any disease having immediate threat of death) which is called marz-ul-maut--in case the donor and the donee are in joint possession of property, if the purpose of the gift at the time of declaration shared between the donor and the donee, the donee is not required to vacate and may continue jointly in possession with the donee without entailing any adverse repercussions on the factum of the gift, for example when a gift is made by a husband to his wife, the husband can continue to receive accruing returns on the subject matter of the gift and the required element of delivery of possession would remain un-affected.

[Head Notes](#)

[Full Case Description](#)

To view full case click on Full Case Description

Displaying Results for Attesting witnesses

Citation Name: PLJ 2009 Supreme Court 423

Appellant Side: Mst. NAGINA BEGUM

V e r s u s

Opponent Side: Mst. TAHZIM AKHTAR & others

Judge Name: Nasir-ul Mulk & Mian Hamid Farooq

Judgment Result:Appeal dismissed.

Other Law Journal References:

----art. 79--document to be attested by two witness--validity--if a document is required by law to be attested, it shall not be used as evidence until two **attesting witnesses** have been called for for purpose of proving its execution.

[Head Notes](#)

[Full Case Description](#)

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Displaying Results for Attesting witnesses

Citation Name: PLJ 2008 Quetta High Court 1

Appellant Side: SULTAN MUHAMMAD

V e r s u s

Opponent Side: Haji KHAIR MUHAMMAD and 2 others

Judge Name: Akhtar Zaman Malghani	
Judgment Result: Suit was dismissed	
Other Law Journal References: PLD 2008 Quetta 1	
----arts. 79 & 17(2)(a)--civil procedure code, (v of 1908), s. 115--question of--proof of execution of document required by law to be attested--onus was upon plaintiff/respondent--not fulfill the requirement of two attested witnesses--after denial by petitioner about execution of sale agreement onus was upon plaintiffs/respondents to have produced two attesting witnesses, but only one attested witness was produced, as such could not fulfill the requirement of such arts--held: onus was upon the plaintiffs/ respondents to have proved execution of agreement, on the basis whereof they were seeking performance but they failed to prove its execution in accordance with law--judgments and decrees passed by courts below on the basis of such inadmissible evidence could not be maintained.	
Head Notes	Full Case Description
To view full case click on Full Case Description	
Displaying Results for Attesting witnesses	
Citation Name: PLJ 2007 Peshawar High Court 70	
Appellant Side: SHAH MULK	
<i>V e r s u s</i>	
Opponent Side: HUSSAN PARI and another	
Judge Name: Talaat Qayyum Qureshi	
Judgment Result: Petition dismissed	
Other Law Journal References: 2007 MLD 556	
----s. 115--qanun-e-shahadat order, (10 of 1984), arts. 72 & 80--documentary evidence--proof of--suit of the petitioner was dismissed by courts below--misreading and non-reading of evidence--marginal witnesses and scribe could not be produced being dead but no such plea took in trial court nor in appellate court--petitioner had to prove the documents relied upon by him and who had to examine attesting witnesses and scribe of the same, if all of them were dead, the fact would have been pleaded before the trial court--steps would have been taken to adduce secondary evidence with the leave of the court--held: no objection was raised to the production of documents would not render the documents as proved.	

Head Notes	Full Case Description
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To view full case click on Full Case Description

Displaying Results for **Attesting witnesses**

Citation Name: PLJ 2007 Supreme Court 640

Appellant Side: RAFAQAT ALI and others

V e r s u s

Opponent Side: Mst. JAMSHED BIBI and others

Judge Name: Muhammad Nawaz Abbasi and Ch. Ijaz Ahmed

Judgment Result:Leave refused.

Other Law Journal References: 2007 SCMR 1076

----arts. 17 & 79--non-production of two **attesting witnesses**--validity--petitioners had produced one witness to prove the execution of agreement as evident from the judgment--according to arts. 17 & 79 of qanun-e-shahadat order, petitioner had to produce two **attesting witnesses** of agreement in-question.

Head Notes	Full Case Description
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To view full case click on Full Case Description

Displaying Results for **Attesting witnesses**

Citation Name: PLJ 2007 Supreme Court 673

Appellant Side: RAFAQAT ALI

V e r s u s

Opponent Side: MUHAMMAD FARID and others

Judge Name: Muhammad Nawaz Abbasi & Ch. Ijaz Ahmed

Judgment Result:Leave refused.

Other Law Journal References: 2007 SCMR 1083

----arts. 17 & 79--attested **witnesses**--validity--petitioner had failed to produce two **attesting witnesses** to prove the contents of agreement to sell--held: courts below were justified to non suit the petitioner in view of arts. 17 & 79 of qanun-e-shahadat.

Head Notes	Full Case Description
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To view full case click on Full Case Description

Displaying Results for Attesting witnesses

Citation Name: PLJ 2007 Supreme Court 838

Appellant Side: AKBAR ALI

V e r s u s

Opponent Side: MUHAMMAD ABDULLAH

Judge Name: Abdul Hameed Dogar & Mian Shakirullah Jan

Judgment Result:Appeal allowed

Other Law Journal References: 2007 SCMR 1233

----art. 79--document required by law to be attested--mode of examination--if a document is required by law to be attested, it shall not be used as evidence until two attested **witnesses** at least have been called for the purpose of proving its execution, if there be two **attesting witnesses** alive and subject to the process of the court and capable of giving evidence--if the writing or signatures is on a document which is by law required to be attested, then execution and signature on document can be proved only by calling in evidence the **attesting witnesses** of the document.

Head Notes	Full Case Description
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To view full case click on Full Case Description

Displaying Results for Attesting witnesses

Citation Name: PLJ 2006 Karachi High Court 322

Appellant Side: KHALIL-UR-REHMAN and others

V e r s u s

Opponent Side: Mst. VAKEELAN and another

Judge Name: Sarmad Jalal Osmany

Judgment Result:Revision dismissed.

Other Law Journal References: PLD 2006 KAR 267

----arts. 17(2)(a), 47, 79, 80 & 118--specific relief act (i of 1877), s. 12--suit for specific performance of agreement to sell--executants of agreement three in number-

-denial of execution by vendee-defendant, but its acceptance and performance by other co-vendees--produced in evidence by plaintiff copies of depositions of co-vendees recorded in earlier suit for specific performance between parties regarding execution of agreement by all three ladies and receipt of sale consideration by them--non-production of **attesting witnesses** of agreement--statement of plaintiff during cross--examination that one **attesting** witness had died, but not stating anything about other witness, whether or not he was alive and capable of giving evidence--non-production of death certificate of other witness--non-appearance of vendee--defendant as witness--effect--as a result of denial of execution of agreement by vendee, burden of proving same would lay upon plaintiff--duty of plaintiff was to have examined both **attesting witnesses** unless shown to have been died or incapable of giving evidence--such depositions of co-vendees could be used only when plaintiff was able to establish that **attesting witnesses** were either dead or could not be found--such depositions would not be sufficient to prove agreement--plaintiff had failed to discharge burden, which could not shift to vendee-defendant--suit was dismissed.

Citation Name: PLJ 2006 Lahore High Court 276

Appellant Side: QASIM ALI

V e r s u s

Opponent Side: KHADIM HUSSAIN (deceased) through Legal Representatives

Judge Name: Mian Saqib Nisar

Judgment Result:Revision accepted.

Other Law Journal References: PLD 2005 LAH 654

----arts. 17 & 79--agreement to sell--two **attesting witnesses** of agreement to sell must be examined to prove execution of the same--agreement to sell relating to immovable property if not proved by examining two **attesting witnesses** inspite of the same having been admitted by co-defendant, the same would not stand proved.

Head Notes

Full Case Description

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Displaying Results for **Attesting witnesses**

Citation Name: PLJ 2006 Lahore High Court 362

Appellant Side: QAMAR-UZ-ZAMAN	
<i>V e r s u s</i>	
Opponent Side: MUHAMMAD SIDDIQUE	
Judge Name: Maulvi Anwar-ul-Haq	
Judgment Result: Revision dismissed.	
Other Law Journal References:	
----s. 115--limitation act (ix of 1908), s. 15--specific relief act (i of 1877), s. 9--suit for possession filed by respondent decreed by trial court--appeal dismissed--assailed--validity--marginal witnesses of agreement filed affidavits that neither agreement was executed in their presence nor any payment was made--petitioner himself admitted that attesting witnesses had filed affidavits--scribe of agreement admitted that parties and attesting witnesses were not known to him--held: execution of the documents has not been proved--admittedly respondent was allottee of plot, he paid the entire price and possession was delivered to him--order a.d.j. not liable to be interfered within meaning of section 115 c.p.c.--revision dismissed.	
Head Notes	Full Case Description
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Displaying Results for Attesting witnesses	
Citation Name: PLJ 2006 Lahore High Court 464	
Appellant Side: AAMAR TUFAIL	
<i>V e r s u s</i>	
Opponent Side: MUHAMMAD SADIQ on behalf of his Legal Heirs	
Judge Name: Maulvi Anwar-ul-Haq and Muhammad Jehangir Arshad	
Judgment Result: Case remanded.	
Other Law Journal References: 2006 CLD 91	
----s. 4--promissory note--attestation--no witness is required to testify promissory note--in absence of requirement of attestation by law i.e. negotiable instruments act, promissory note requires no attestation of witnesses and thus, is neither covered by art. 17 of qanun-e-shahadat, 1984 which is a general law nor non-production of at least two witnesses to prove execution of pro-note was fatal for making the same admissible in evidence--trial court was, thus, not right in excluding disputed pronote from consideration either for want of attesting witnesses or for non-	

production of two witnesses for proof thereof, in terms of art. 79 of qanun-e-shahadat order, 1984.	
Head Notes	Full Case Description
To view full case click on Full Case Description	
Displaying Results for Attesting witnesses	
Citation Name: PLJ 2005 Lahore High Court 1057	
Appellant Side: Mst. ALLAH JAWAI, WIDOW and 4 others	
<i>V e r s u s</i>	
Opponent Side: MAQBOOL SHAH and 2 others	
Judge Name: Mian Hamid Farooq	
Judgment Result: Revision accepted.	
Other Law Journal References: 2005 MLD 261	
----arts. 17 & 79--production of two marginal witnesses to prove the execution of the agreement to sell--under what circumstances a scribe can be considered as a competent witness and replace the requirement of producing marginal witness--question of--held : a scribe can be treated as a marginal witness, if the parties had executed and signed the document in his presence, they alongwith the attesting witnesses, have signed the agreement before him.	
Head Notes	Full Case Description
To view full case click on Full Case Description	
Displaying Results for Attesting witnesses	
Citation Name: PLJ 2004 Peshawar High Court 114	
Appellant Side: FAZAL-UR-REHMAN	
<i>V e r s u s</i>	
Opponent Side: KHURSHID ALI and another	
Judge Name: DOST MUHAMMAD KHAN	
Judgment Result: Petition dismissed	
Other Law Journal References:	
-s. 13-non-signing of notice of talb-e-ishhad by attesting witnesses -both witnesses	

in their statements before court had confirmed that they had attested original notice-even in written statement receiving notice of talb-e-ishhad had not been denied by defendant-plea of non-signing of notice of talb-e-ishhad was, thus, of no consequence.

[Head Notes](#)

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Displaying Results for **Attesting witnesses**

Citation Name: PLJ 2004 Supreme Court 80

Appellant Side: Mst. ARJMAND ARA BEGUM etc.

V e r s u s

Opponent Side: AYAZ UMER etc.

Judge Name: QAZI MUHAMMAD FAROOQ AND ABDUL HAMEED DOGAR

Judgment Result: Leave refused.

Other Law Journal References:

--s. 54-constitution of pakistan (1973), art. 185(3)--sale-deed--validity" concurrent findings of courts below on the question of fact that respondents/alleged vendors were minors on specified date when sale deed was got attested, being based on evidence were not open to exception-cogent reasons have been given by appellate court while modifying judgment of trial court-mother of minors having denied execution of sale-deed, defendants were required to produce **attesting witnesses** of sale-deed which they failed to produce-no legal infirmity of misreading or non-reading to justify interference in exercise of appellate or revisional jurisdiction of high court was pointed out-leave to appeal was refused.

[Head Notes](#)

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Displaying Results for **Attesting witnesses**

Citation Name: PLJ 2004 AJ&K Court 58

Appellant Side: CHARAGH BEGUM and others

V e r s u s

Opponent Side: RAJ MUHAMMAD and others

Judge Name: GHULAM MUSTAFA MUGHAL	
Judgment Result: Order accordingly	
Other Law Journal References: 2004 YLR PLC (CS) 1248	
art. 79-civil procedure code, 1908 (v of 1908), o.xli, r. 31-execution of document-quantum of proof-attesting witnesses of document in question being alive, none of them was produced in court in proof of the same-finding of trial court that document in question was proved, was against law-first appellate court merely reproduced opinion of trial court-first appellate court was equally court of facts, therefore, appeal should have been decided by such court in light of o.xli, r. 31 c.p.c. which requires independent consideration of facts by it-such finding of ' courts below that document in question was proved, was, thus, against law.	
Head Notes	Full Case Description
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Displaying Results for Attesting witnesses	
Citation Name: PLJ 2003 Karachi High Court 175	
Appellant Side: Mst. SHAHANA KHAN	
<i>V e r s u s</i>	
Opponent Side: Mst. KHALIDA PARVEEN	
Judge Name: S. ALI ASLAM JAFRI	
Judgment Result: Petition dismissed	
Other Law Journal References:	
--ss. 8 & 12-qanun-e-shahadat (10 of 1984), arts. 17(2) & 117-suit for possession-agreement to sell-proof-plaintiff had denied execution of agreement to sell-burden was, thus, lying on defendant to prove execution of agreement, which she had failed to discharge-defendant was not party to agreement-defendant's husband as d.w. had admitted not' to have filed suit for specific performance of agreement against plaintiff-non-filing of suit for specific performance was a very important and relevant factor, which could not be ignored-attesting witnesses of agreement had not been examined-view of courts below that execution of alleged agreement by plaintiff was not proved, was unexceptionable- no right had, thus, accrued to the defendant's husband entitling him to alienate suit house by way of gift in her favour-petition dismissed with costs.	

Head Notes	Full Case Description
To view full case click on Full Case Description	
Displaying Results for Attesting witnesses	
Citation Name: PLJ 2003 Karachi High Court 196	
Appellant Side: ARBAB ALI and 4 others through Legal Heirs	
<i>V e r s u s</i>	
Opponent Side: NOOR BAKHSH and 4 others	
Judge Name: GULZAR AHMED,	
Judgment Result: Revision application allowed	
Other Law Journal References:	
--s. 12-qanun-e-shahadat, 1984 (10 of 1984), art. 79-transfer of property act, 1882 (iv of 1882), s. 53-a-civil procedure code. 1908 (v of 1908), o. viii, r. 1-specific performance of agreement to sell-trial court dismissed the suit on the ground of lack of jurisdiction whereas appellate court dismissed the appeal holding that agreement was invalid on the ground that it was not signed by the purchaser and there was no acceptance by the purchaser to constitute the agreement-validity- condition prescribed by law for proving the attested document stood fulfilled as both the attesting witnesses were produced and they admitted execution of the agreement in their presence-finding of appellate court was based on misunderstanding of law and non-appreciation of evidence on record-execution of the agreement was proved and its terms and conditions amply demonstrated that the agreement was accepted by the purchaser-contract for transfer of immovable property under the provisions of s. 53-a of transfer of property act, 1882 required signing of the same only by the transferor or on his behalf-law did not require that the contract should also be signed by the purchaser-labelling of the agreement as forgery in written statement was not enough as the written statement was not an evidence in law-judgments and decrees passed by the courts below were set aside and the suit was decreed by the high court in revision.	
Head Notes	Full Case Description
To view full case click on Full Case Description	
Displaying Results for Attesting witnesses	
Citation Name: PLJ 2003 Peshawar High Court 212	

Appellant Side: MUHAMMAD SHOAIB KHAN	
<i>V e r s u s</i>	
Opponent Side: SHARIF KHAN	
Judge Name: SHAHZAD AKBAR KHAN	
Judgment Result: Revision dismissed.	
Other Law Journal References:	
-o. xli, r. 27~production of additional evidence-plaintiff having failed to produce attesting witnesses at trial stage, there was no justification for making application by him at appellate stage soliciting production of attesting witnesses-such was obviously an attempt to rectify infirmity of his case-no separate order was although made on application made by plaintiff for production of additional evidence yet he heard arguments of both sides and was not inclined to accept such application and his judgment in main appeal also reflects his mind on that point-appellate court, thus, did not find itself in a state of inability to pronounce judgment without recording additional evidence.	
Head Notes	Full Case Description
To view full case click on Full Case Description	

Citation Name: PLJ 2003 Peshawar High Court 212	
Appellant Side: MUHAMMAD SHOAIB KHAN	
<i>V e r s u s</i>	
Opponent Side: SHARIF KHAN	
Judge Name: SHAHZAD AKBAR KHAN	
Judgment Result: Revision dismissed.	
Other Law Journal References:	
-ss. 7 & 13-dismissal of pre-emption suit on ground that petitioner could neither establish contiguity of his land with land in question, nor requisite talabs were made properly in accordance with law~legality~ none of attesting witnesses was produced by petitioner before trial court-in absence of proof of deed dated 19.1.1992, which also was not exhibited, alleged contiguity of land of petitioner (plaintiff) was not established.	

To view full case click on Full Case Description	
Displaying Results for Attesting witnesses	
Citation Name: PLJ 2003 Supreme Court 529	
Appellant Side: SIRAJ DIN and others	
<i>V e r s u s</i>	
Opponent Side: GHULAM NABI and others	
Judge Name: QAZI MUHAMMAD FAROOQ ; DEEDAR HUSSAIN SHAH AND ABDUL HAMEED DOGAR,	
Judgment Result: Leave refused	
Other Law Journal References:	
-art. 74-contents of document-neither notary public who had attested such documents nor attesting witnesses were produced to prove genuineness thereof-very foundation of case based on such document was thus, baseless and same merited to fall down as rightly held so by courts below including high court while deciding matter against petitioners-besides consolidation proceedings being in progress at relevant time, mutation of sale in favour of vendee respondent and further alienation in favour of petitioners in absence of registered sale- deed and also without obtaining necessary permission from consolidation officer was illegal.	
Head Notes	Full Case Description
To view full case click on Full Case Description	
Displaying Results for Attesting witnesses	
Citation Name: PLJ 2003 Cr.C 761	
Appellant Side: Haji NADIR KHAN and 2 others	
<i>V e r s u s</i>	
Opponent Side: STATE	
Judge Name: AMANULLAH KHAN YASINZAI AND AHMED KHAN LASHARI	
Judgment Result: Accused acquitted.	
Other Law Journal References:	
--s. 410-pakistan penal code, 1860 (xlv of i860), s. 302(b)-evidence relating to	

recovery of crime weapon at the instance of appellant-such evidence was disbelieved as the same was not supported by **attesting** witness who had stated in cross-examination that pistol was not recovered in his presence from the house of appellant-besides, recovery of pistol, was of no use to prosecution, in absence of report of ballistic expert-trial court had erroneously relied upon evidence of alleged eye **witnesses** and that the same received corroboration from medical evidence and recovery-prosecution has, thus, failed to prove its case against appellants, therefore, by giving them benefit of doubt they were acquitted of the charge of murder.

Head Notes

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Displaying Results for Attesting witnesses

Citation Name: PLJ 2003 Cr.C 761

Appellant Side: Haji NADIR KHAN and 2 others

V e r s u s

Opponent Side: STATE

Judge Name: AMANULLAH KHAN YASINZAI AND AHMED KHAN LASHARI

Judgment Result:Accused acquitted.

Other Law Journal References:

-s. 302(b)--criminal procedure code, 1898 (v of 1898), ss. 161 & 140-conviction and sentence of life imprisonment awarded to appellants for offence of murder, assailed-appreciation of evidence-complainant while recording f.i.r. did not disclose his source of information-sole eyewitness named in f.i.r. was not examined-statements of those **witnesses** who were not named in f.i.r. and who claimed to be eye **witnesses** was recorded by police after five days of incidence without offering any explanation-recovery of pistol and one empty from the place of incident cannot be used as corroborative piece of evidence in as much as, both articles, were not sent to ballistic expert for report-besides, **attesting** witness has not supported recovery-statements under section 161 cr.p.c. recorded with delay without giving any plausible explanation were to be ruled out of consideration-prosecution witness thus, could not be relied upon.

Head Notes

Full Case Description

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Displaying Results for Attesting witnesses

Citation Name: PLJ 2002 Supreme Court 706	
Appellant Side: Mst. RASHEEDA BEGUM and 3 others	
<i>V e r s u s</i>	
Opponent Side: MUHAMMAD YOUSAF and others	
Judge Name: SH. RIAZ AHMED, C. J. AND QAZI MUHAMMAD FAROOQ	
Judgment Result: Appeals dismissed.	
Other Law Journal References:	
-art. 79~agreement to sell executed on 8.3.1991 and attested by two witnesses having been executed after promulgation of qamm-e-shahadat 1984, execution thereof ought to have been proved in accordance with art 79 of qanun-e-shahadat 1984-evidence on record, however, consists of only one attesting witness-payment of earnest money was also not proved on record-evidence produced by appellant thus, does not meet requirements of art. 79 of qanun-e-shahadat, 1984-order of dismissal of appellant's (plaintiff) suit was maintained in circumstances.	
Head Notes	Full Case Description
To view full case click on Full Case Description	

Displaying Results for Attesting witnesses	
Citation Name: PLJ 2002 Lahore High Court 1297	
Appellant Side: ASIYA KAUSAR and another	
<i>V e r s u s</i>	
Opponent Side: AMJAD IKRAM and another	
Judge Name: SYED JAMSHED ALI & SYED ZAHID HUSSAIN	
Judgment Result: Appeal accepted.	
Other Law Journal References:	
--s. 12-civil procedure code, 1908 (v of 1908), s. 96-agreement to sell-proof of-quantum of evidence produced on record whether sufficient to prove execution of agreement of sale-considering evidence in its totality and circumstances no doubt whatsoever, was left in mind that plaintiff had faj ^ ed to established by concrete evidence, execution of agreement, power of attorney or alleged payment-mere production of scribe or attesting witnesses would not in all cases ipso facto, be a	

proof of execution of document-quality and content of deposition of **witnesses** gain importance and relevance-discrepancies of trivial nature could although be over looked, in the presence of other cogent evidence, yet no inconsistencies on important matter could be ignored--finding of trial court being based on inconsistencies on important aspect of the case was set aside and suit was dismissed.

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Displaying Results for **Attesting witnesses**

Citation Name: PLJ 2001 Karachi High Court 21

Appellant Side: GHULAM NABI

V e r s u s

Opponent Side: GHULAM SARWAR

Judge Name: MUHAMMAD ASHRAF LEGHARI

Judgment Result:?

Other Law Journal References:

--s; 21--appeal against ejectment-rent controller had ordered ejectment of appellant from premises in question, on proof of respondent being owner of premises, non-payment of rent by appellant and on proof of bonafide personal use of premises by respondent (landlord)--validity- respondent had produced tenancy agreement signed by parties which showed that appellant had taken premises in question on rent from respondent--**attesting witnesses** of rent deed had supported execution of the same--town committee concerned had issued certificate to the effect that respondent was the landlord of premises-tenant (appellant) although claimed ownership of premises yet he could not produce evidence in support of his such plea--non-payment of rent stood established in the record so also plea of respondent for his personal use could not be contradicted--rent appeal being meritless, was, thus not maintainable in circumstances.

Head Notes

Full Case Description

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Displaying Results for **Attesting witnesses**

Citation Name: PLJ 2001 Lahore High Court 672

Appellant Side: GHULAM BHEEK (deceased) through his legal heirs and

another	
V e r s u s	
Opponent Side: Mst. SALAMAT BIBI & another	
Judge Name: MAULVI ANWAR-UL-HAQ	
Judgment Result: Appeal allowed.	
Other Law Journal References:	
-art. 79-civil procedure code (v of 1908), s, 100--dismissal of suit by trial court-decision reserved in appeal-validity-execution of power of attorney-application under art. 79 of qanun-e-shahadat-question of law-respondent no. 1 had herself claimed that it was her husband i.e. attorney who acting under power of attorney referred in plaint had proceeded into and executed agreement in her favour-only evidence led in support of its execution by "n" was dw-2, scribe-he had only stated that document had been written by him-it is matter of record that none of two marginal witnesses of document were produced and no explanation, whatsoever, was forthcoming on record for non-production of said material evidence-this did lead to drawing of adverse inference that had witnesses been produced they would not had supported case of respondent no. 1-this left only statement of respondent no. 2 in field, who appeared as dw-1 and apart from producing power of attorney and to state that he was attorney of "n", did not even bother to state that "n" had even executed power of attorney which had been produced by him- learned trial court rightly held that in view of affective rebuttal of said bald statement made by dw-1 by appellants in their evidence, no evidence to prove execution of power of attorney d.w-1/1 was produced by respondent no. 1-learned additional district judge had, however, proceeded to state in his judgment that in proviso to article 79 of qanun-e-shahadat order, 1984, absolved production of attesting witnesses to registered document to prove execution thereof, unless its execution was denied by very executant of document-even under proviso to said article 79 party relying upon registered document was only relieved of duly of calling of attesting witness and it was not absolved of its duty to prove document-held : respondents had failed to prove execution of any power of attorney by "n" in favour of respondent no. 2, entire edifice built on same by husband and wife fell to ground-appeal allowed.	
Head Notes	Full Case Description
To view full case click on Full Case Description	
Displaying Results for Attesting witnesses	
Citation Name: PLJ 2000 Peshawar High Court 49	

Appellant Side: MUHAMMAD ISHAQ etc	
<i>V e r s u s</i>	
Opponent Side: GHAFOR KHAN and others	
Judge Name: TARIQ PARVEZ KHAN	
Judgment Result:	
Other Law Journal References:	
-s. 42-civil procedure code (v of 1908), 8.115-attestation of mutation- non-compliance of provisions of s. 42, west pakistan land revenue act- effect-witnesses to execution of mutation were unanimous on each detail of execution of impugned mutation-mere fact that evidence given by a witness though related to party who had produced him in witness box could not be discredited or be of title value just because of their inter ge relationship or more so in absence of any stained relation between witness and that party against whom he had appeared-objection relating to non-compliance of s. 42, west pakistan land revenue act 1967, can be raised at any stage of proceedings which would also include revision proceedings, where such legal procedure of law would be of such nature as would make transaction in question, to be void-provision of s. 42, west pakistan land revenue act 1967 though appears to be mandatory, yet the same merely prescribes mode and manner, person and place for registration/execution and attestation of mutation-non adherence to procedure as prescribed in s. 42, west pakistan land revenue act 1967, is not initiated by any penalty to be imposed on any revenue officer- concept of attesting mutation in common assembly is prescribed with a view to minimise rather to exclude commission of any fraud firstly to deprive the owner of his proprietary rights and secondly to protect vendee/transferee after once mutation was attested-strict non- compliance of s. 42 of the act (xvii of 1967) would, therefore, in no way invalidate mutation.	
Head Notes	Full Case Description
To view full case click on Full Case Description	
Displaying Results for Attesting witnesses	
Citation Name: PLJ 1998 Lahore High Court 307	
Appellant Side: SHAHBAZ ASLAM	
<i>V e r s u s</i>	
Opponent Side: ZAMAN KHAN and another	
Judge Name: AMIR ALAM KHAN	

Judgment Result: Orders accordingly.	
Other Law Journal References:	
--o. 18 r. 17 read with s. 151-suit for pre-emption-application for recall of witnesses-acceptance of-challenge to-whether recalling of attesting witnesses of notice of talb-e-ishhad only vested in court or whether a party to us can also file and maintain an application for recalling of witnesses-question of-it is now a forgone conclusion that party to lis can also file application under o. 18 r. 17 cpc and in appropriate cases witnesses can be recalled on motion of a party to proceedings-scope of examination of witnesses on their being recall as conferred by court under o.18 r. 17 cpc was enlarged by invoking inherent powers of court under section 151 cpc, thereby allowing that a witness may be examined, cross examined and re-examined-producing a witness and recalling a witness are two different concepts and independent of each other-decision of one would not fore-close decision in other nor the same can be equated with each other to hold that general principle of resudicata would be applicable-petitioner was allowed to examine attesting witnesses of notice talb-e-ishhad to prove the same.	
Head Notes	Full Case Description
To view full case click on Full Case Description	
Citation Name: PLJ 1998 Lahore High Court 307	
Appellant Side: SHAHBAZ ASLAM	
<i>V e r s u s</i>	
Opponent Side: ZAMAN KHAN and another	
Judge Name: AMIR ALAM KHAN	
Judgment Result: Orders accordingly.	
Other Law Journal References:	
--s. 115-o. 18 r. 17--punjab pre-emption act, 1991 s. 13-suit for pre-emption-application for additional evidence-allowed to prove notice of talb-e-ishhad -but not allowed to produce witnesses-challenge o-pre- emptor/petitioner was allowed to prove notice of talb-e-ishhad and said notice could only be proved by production of attesting witnesses thereof- order of allowing production of additional evidence could ot be frustrated or set at naught by declining request of pre-emptor to produce attesting witnesses in evidence, which tentamounts to giving by one hand and taking by the other-under s. 13 of punjab pre-emption ct, 1991 notice of talb-e-ishhad is required to be attested by two truthful witnesses-word 'proof means and	

includes proof by production of **witnesses** so that other party should have opportunity to cross examine such **witnesses**-attestation of notice of 'talb-e-ishhad' and proof thereof is not a mere formality but a sine qua non for exercise of very right of pre-emption-held : trial court ought to have exercised its urisdiction by allowing petitioner to produce **attesting witnesses** of notice to do complete justice- petition allowed.

Head Notes	Full Case Description
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To view full case click on Full Case Description

Displaying Results for Attesting witnesses

Citation Name: PLJ 1996 Peshawar High Court 161

Appellant Side: MANZOOR HUSSAIN QURESHI ETC.

V e r s u s

Opponent Side: ABDUS SALAM ETC.

Judge Name: ABDUR REHMAN KHAN

Judgment Result:Revision petition dismissed.

Other Law Journal References:

--s. 69--whether production of scribe or marginal witness not necessary to prove execution of document--if not, what is requirement of law to prove execution of document in case of death of scribe or **attesting witnesses**- question of--even if it is assumed that scribe or **attesting witnesses** were not live then under section 69 of evidence act plaintiffs were required to have proved that attestation of one witness was at least in his writing and that ignature of executant of deed was also in his handwriting-but excepting solitary statement of one of plaintiff no other witness was examined to prove bove requirement

Head Notes	Full Case Description
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To view full case click on Full Case Description

Displaying Results for Attesting witnesses

Citation Name: PLJ 1996 Supreme Court 1688

Appellant Side: FAZAL WAHID etc.

V e r s u s

Opponent Side: Hqji MUHAMMAD SADIQ KHAN

Judge Name: SAIDUZZAMAN SIDDIQUI AND MUHAMMAD BASHIR JEHANGIRI	
Judgment Result: Leave to appeal refused.	
Other Law Journal References:	
-article 79 of iqanun-e-shahadat order 1984-islamic jurisprudence : farhad ali (special attorney) was competent to testify to execution of questioned rent deeds still under article 79, in accordance with requirements of islamic jurisprudence two attesting witnesses at least are required to prove execution.	
Head Notes	Full Case Description
To view full case click on Full Case Description	
Displaying Results for Attesting witnesses	
Citation Name: PLJ 1996 Supreme Court 526	
Appellant Side: SANA ULLAH and another	
<i>V e r s u s</i>	
Opponent Side: MUHAMMAD MANZOOR and another	
Judge Name: SAIDUZZAMAN SIDDIQUI, FAZAL ILAHI KHAN, MIR HAZAR KHAN	
Judgment Result: Appeal accepted.	
Other Law Journal References:	
--art. 78--document-proof of--document allegedly signed and executed by appellant-how to prove-question of~in case person who is alleged to have executed document denies his signatures, his signatures can be proved by calling person in whose presence document was executed-signatures of appellant no. 1 on ex. p. 1 and p. 3 could be proved only by calling two attesting witnesses of these documents- witnesses were aliveand were available but they were not produced by respondents--held; courts below could not hold that execution of documents was proved-- appeal accepted.	
Head Notes	Full Case Description
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Displaying Results for Attesting witnesses	
Citation Name: PLJ 1996 Supreme Court 690	

Appellant Side: WARYAM	
<i>V e r s u s</i>	
Opponent Side: SHAUKAT ALI KHAN etc.	
Judge Name: ZIA MAHMOOD MIRZA AND RAJA AFRASIAB KHAN	
Judgment Result: Leave granted.	
Other Law Journal References:	
-suit for specific performance-whether agreement to sell was not required by law to be attested and examination of attesting witnesses was not necessary to prove its execution-whether proof/admissibility of said agreement could be questioned at a later stage when it was proved/brought on record without any objection from other side-questions of-leave to appeal is granted to consider these questions.	
Head Notes	Full Case Description
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Displaying Results for Attesting witnesses	
Citation Name: PLJ 1993 Lahore High Court 117	
Appellant Side: NAZIR AHMED	
<i>V e r s u s</i>	
Opponent Side: MUHAMMAD RAFIQ	
Judge Name: MIAN NAZIR AKHTAR	
Judgment Result: Petition dismissed.	
Other Law Journal References:	
art. 79 read with art. 17 - agreement to sell - execution of - proof of - parties had . executed document in presence of scribe and signed it - even attesting witnesses had signed document in presence of scribe - scribe can be treated to be an attesting witness although he has not signed it "in that capacity - requirements of provisions of article 79 read with article 17 of qanun-e-shahadat have been substantially complied with --admittedly original document was placed on record, but record having been burnt, was reconstructed under orders of high court - no objection was raised at time of reconstruction of file regarding genuineness of agreement to sell ~ held: no jurisdictional defect in impugned judgments and decrees of courts below or any misreading or non-reading of evidence has been pointed out to justify interference in concurrent findings of fact recorded by courts below - petition	

dismissed.	
Head Notes	Full Case Description
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Displaying Results for Attesting witnesses	
Citation Name: PLJ 1991 Karachi High Court 140	
Appellant Side: BONAVENTURE PAUL	
<i>V e r s u s</i>	
Opponent Side: ALI MUHAMMAD and another	
Judge Name: SALEEM AKHTAR,	
Judgment Result: Appeal dismissed.	
Other Law Journal References:	
--s.63 read with evidence act,1872. sections 68 & 69-will-execution of- procedure for-whether in absence of any attesting witness, will is proved- question of-under section 63 of succession act. will is required to be executed by two or more witnesses -according to section 68 of evidence act, a document is required to be attested and it shall not be used in evidence until one attesting witness has been called for proving its execution provided he is alive and subject to process of court and capable of giving evidence-from evidence on record, it is not established that one witness is not alive or incapable of giving evidence-no witness was produced who could testify, under section 69 of evidence act that attestation was made by such a witness and he was acquainted with his handwriting-held: failure to call an attesting witness may render document inadmissible in evidence.	
Head Notes	Full Case Description
To view full case click on Full Case Description	
Displaying Results for Attesting witnesses	
Citation Name: PLJ 1990 Karachi High Court 270	
Appellant Side: ALLAH WARAYO	
<i>V e r s u s</i>	
Opponent Side: MUHAMMAD RAMZAN and others	
Judge Name: ABDUL RAHIM KAZI	

Judgment Result: Petition allowed.	
Other Law Journal References:	
--o. xvi r. 1 and o. xiii r. 2--witness-not included in list of witnesses- summoning of--prayer for~it is not denied that before any evidence was brought on record, no prejudice was likely to be caused to other side if applications moved by defendant were allowed at that stage-reasons advanced by defendant for summoning other attesting witness of sale-deed, were quite cogent-held: he should have been allowed opportunity to examine second attesting witness-held further: order of civil judge declining to allow defendant to bring registered document on record, is not proper-petition allowed and case remanded.	
Head Notes	Full Case Description
To view full case click on Full Case Description	