JUDGMENT SHEET

IN THE LAHORE HIGH COURT, RAWALPINDI BENCH, RAWALPINDI.
JUDICIAL DEPARTMENT.

R.F.A. No.34/2011.

Asghar Ali
Versus
Maqsood Younas etc.

Date of Hearing	**06.09.2016.**
Appellant By	**Advocate.**
Respondents By	**Nemo.**

MUHAMMAD AMEER BHATTI, J:- This Regular First Appeal is directed against the judgment and decree dated 28.01.2011 passed by the learned trial Court, whereby appellant's suit for possession through Preemption was dismissed on account of deficiency in the evidence with regard to *Talb-i-Ishhad.*

2. We have examined record of the case with the assistance of learned counsel for the appellant and it is found that the postman, who delivered the postal documents upon the respondents-defendants-vendees to prove the factum of service of notice of *Talb-i-Ishhad,* had not been produced by the appellant. Learned counsel for the appellant admitted the deficiency in this regard, which is fatal to get the suit for pre-emption decreed in view of ratio laid down in Dayam Khan and others vs. Muslim Khan (2015 SCMR 222) and Khan Afsar vs. Afsar Khan and others (2015

SCMR 311), wherein it was held that the production of Postman was mandatory requirement in order to prove the factum of service of notice of *Talb-i-Ishhad,* failing which the suit could not be decreed. Since the deficiency is floating on the surface of record, therefore, the learned counsel submits that in presence of this deficiency, he is unable to persuade this Court that *Talb-i-Ishhad* was performed by the plaintiff-appellant in accordance with law. Thus, this appeal has no merits and is dismissed accordingly. No order as to costs.

(**MUHAMMAD AMEER BHATTI)**
JUDGE.

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