

## IN THE HIGH COURT OF SINDH CIRCUIT COURT HYDERABAD

Civil Revision Application No.290 of 2023  
Civil Revision Application No.291 of 2023

Applicant[s]: Sukkur Electric Power Company Ltd. (SEPCO) through its authorized agent Sub-Divisional Officer GSO 132 K.V Gird Station Dadu. Through Mr. Faheem A. Ghaloo, Advocate.

For the private Respondents: Mr. Khuda Bux alias K.B Lutuf Ali Laghari, advocate.

For the Official Respondents: Mr. Muhammad Yousuf Rahpoto, A.A.G.

Date of hearing: 12-09-2025

Date of Judgment: 12-09-2025

### JUDGMENT

**Jan Ali Junejo, J.---** Through this common judgment, I propose to decide the above-captioned Civil Revision Applications, both directed against the judgment and decree dated 22.08.2023 (hereinafter referred to as the "*Impugned Judgment and Decree*") passed by the learned Additional District Judge-IV, Dadu (hereinafter referred to as the "*Appellate Court*"). Civil Revision Application No.290 of 2023 calls into question the appellate judgment and decree rendered in Civil Appeal No. 06 of 2023, which arose out of the judgment dated 15.11.2022 and decree dated 19.11.2022 passed by the learned Senior Civil Judge-II, Dadu (hereinafter referred to as the "*Trial Court*"), in F.C. Suit No. 23 of 2021 titled "*Nooral Khan v. Province of Sindh & others.*" Likewise, Civil Revision Application No. 291 of 2023 assails the appellate judgment and Decree dated: 22-08-2023 (hereinafter referred to as the "*Impugned Judgment and Decree*") rendered in Civil Appeal No.04 of 2023, arising from the judgment dated 15.11.2022 and decree dated 19.11.2022 passed by the same Trial Court in F.C. Suit No. 22 of 2021 titled "*Muhammad Sharif & others v. Province of Sindh & others*". Since the legal and factual issues

involved in both matters are substantially identical, they are being decided together through this consolidated judgment in order to avoid prolixity and to serve the ends of judicial economy.

2. The litigation commenced with the filing of two separate suits for Declaration and Permanent Injunction before the Court of the learned Senior Civil Judge-II, Dadu.

- **F.C. Suit No. 23/2021 (Nooral Khan vs. Province of Sindh & others):** The plaintiff, **Nooral Khan**, instituted a suit claiming ownership of a commercial plot ad-measuring 00.3 11/18 Ghuntas out of Survey No. 586, Dadu Sehwan road, which he purchased from Mehmood Khan Gopang through a registered Sale Deed No. 296 dated 11.02.2017 (Exh.31/A). In his pleadings and evidence, he specifically described the boundaries of the suit land: to the North by Dadu-Sehwan Road, to the South by the 132 K.V. Grid Station of the Applicant (SEPCO), to the West by a plot of Muhammad Sharif, and to the East by the gate of the said Grid Station. To substantiate his claim, he examined himself as PW-1 (Exh.31) and produced marginal witnesses to the sale deed, namely Muhammad Sharif (PW-2, Exh.32) and Ali Asghar (PW-3, Exh.33). He also examined the Sub-Registrar, Dadu, PW-4 Zulfiqar Ali Lakho (Exh.37), who produced the original day book (Exh.37/A) and T.P. register (Exh.37/B) pertaining to the sale transaction. His case was that on 11th and 12th March 2021, labourers of the Municipal Committee, Dadu, began digging on his plot to establish a park, constituting an illegal attempt to dispossess him.
- **F.C. Suit No. 22/2021 (Muhammad Sharif & others vs. Province of Sindh & others):** In the connected suit, the plaintiffs, **Muhammad Sharif, Ali Akbar, and Fatah Muhammad**, claimed joint ownership of a distinct portion of the same Survey No. 586, ad-measuring 02.7/9 Ghuntas total area 0.319 acres. Their title was based on a registered Sale Deed No. 295 dated 11.02.2016 (Exh.32/B), also purchased from Mehmood Khan Gopang. They prosecuted the suit through their special attorney, Nooral Khan. The boundaries of their plot were stated as: North by Dadu-Sehwan Road, South by the SEPCO Grid Station, East by the plot of Nooral Khan, and West by the plot of Mehmood Khan. To prove their case, they examined their attorney, Nooral Khan, as PW-1 (Exh.32), who produced the power of attorney (Exh.32/A) and the sale deed (Exh.32/B). They also examined a marginal witness, Ismail Leghari (PW-2, Exh.33), and the Sub-Registrar, PW-3 Zulfiqar Ali Lakho (Exh.36), who produced the corresponding registration records (Exh.36/A & 36/B). They alleged an identical cause of action, discovering municipal labourers digging on their plot in March 2021.

3. The defendants, including the Applicant SEPCO and various official respondents, contested both suits with a unified defense. Their primary

contention was that the suit lands were not private property but formed part of the shoulder/right-of-way of the Indus Highway, thus vesting in the Government. They examined officials from the Municipal Committee (Exh.44 & Exh.43) and SEPCO (Exh.48) who asserted this claim. Crucially, the defendant official respondents examined the Mukhtiarkar, Taluka Dadu (Exh.53 in Suit 23/2021; Exh.50 in Suit 22/2021), who produced the revenue entries (Exh.50/A & 50/B) which, while showing the history of private ownership, also suggested the existence of a vacant area. Furthermore, the Trial Court, *suo motu*, examined Maqbool Hussain Khoso, the Executive Engineer of the Highways Department, as a Court Witness (CW-1, Exh.56 in both suits), who produced letters from the National Highway Authority (Exh.56/B & 56/C) and opined that the suit land fell within the 110-foot-wide area of the highway. The learned Trial Court, in a separate judgment dated 15.11.2022, dismissed both suits. It held that the plaintiffs failed to prove possession and accepted the defendants' evidence, concluding that the suit land was Government property falling within the highway's domain.

4. Aggrieved by the dismissal, the plaintiffs preferred two separate appeals. Civil Appeal No. 06/2023 was filed by Nooral Khan against the judgment in Suit No. 23/2021, and Civil Appeal No. 04/2023 was filed by Muhammad Sharif and others against the judgment in Suit No. 22/2021. The learned Appellate Court (Additional District Judge-IV, Dadu) undertook a comprehensive re-appreciation of the entire evidence. It meticulously analyzed the plaintiffs' title documents and, significantly, the revenue entries (Exh.50/A & 50/B) produced by the Mukhtiarkar, which confirmed the chain of title from the original owner, Ghulam Shabir Arain, down to the plaintiffs' predecessor-in-title, Mehmood Khan Gopang.

5. Through two separate but identically reasoned judgments dated 22.08.2023, the learned Appellate Court allowed the respective appeals. The crux of its reasoning was that the plaintiffs had successfully discharged their initial burden of establishing title by producing registered sale deeds, which, under the law, carry a presumption of correctness and authenticity. The Appellate Court held that the onus then shifted to the defendants to rebut this evidence by proving that the specific parcels of land had been acquired by the Government. The Appellate Court found a fatal lapse in the defendants' case: a complete absence of any documentary proof, such as a land acquisition award, notification, or revenue record, showing the suit land as Government property. It held that the oral opinion of the Court Witness (CW-1) from the Highways Department, unsupported by any document specifically linking the highway's general width to the khasra number of the suit land, was insufficient to override the plaintiffs' documentary title. Consequently, the Appellate Court set aside the Trial Court's judgments, decreed the suits to the extent of granting a declaration of title in favour of the respective plaintiffs, and prudently directed them to seek demarcation from the revenue authorities. It is this decision that has prompted the instant revision applications.

6. Mr. Faheem A. Ghaloo, learned counsel for the Applicant, vehemently argued that the impugned appellate judgments are patently illegal and suffer from material irregularities warranting reversal. He contended that the learned Appellate Court exceeded its jurisdiction by acting as a primary fact-finding court, misreading and non-reading the crucial evidence of the Court Witness from the Highways Department (Exh.56) which unequivocally stated the suit land falls within the 110-foot-wide Government highway. He asserted that the Appellate Court erroneously placed the entire burden of proof on the defendants, while the Plaintiffs themselves failed to prove their lawful

possession over the specific contested land, a finding correctly arrived at by the learned Trial Court after a meticulous appraisal of evidence. He prayed for the revisions to be allowed, the appellate judgments set aside, and the well-reasoned judgment of the Trial Court restoring the dismissal of the suits.

7. Mr. Khuda Bux Laghari/Mr. Abdul Hakeem Leghari, learned counsel for the private Respondents (Plaintiffs), supported the impugned judgments and prayed for the dismissal of the revisions. They argued that the Appellate Court performed its legitimate statutory duty as a first appellate court by correctly re-appreciating the entire evidence. They emphasized that the Plaintiffs discharged their initial burden by proving a prima facie case of title through registered sale deeds, a fact further corroborated by the revenue record (Exh.50/A & 50/B) produced by the Defendants' own witness, the Mukhtiarkar. They stressed that the defendants, despite their assertions, failed to produce a single document, such as an acquisition award or notification, to prove that the Plaintiffs' specific parcels of land were ever acquired by the Government. They concluded that the scope of revisional jurisdiction under Section 115, CPC is extremely narrow and cannot be invoked to re-assess evidence or supplant the plausible findings of fact lawfully reached by the Appellate Court.

8. Mr. Muhammad Yousif Rahpoto, the learned Assistant Advocate General (A.A.G.) representing the official respondents, adopted a neutral stance. He submitted that the official respondents, being custodians of public property, had placed the relevant facts and revenue records before the court. He left the matter to the wisdom of this Honourable Court, praying for a decision based on the merits of the case and the applicable law, without actively supporting either party's prayer.

9. I have carefully considered the arguments advanced by the learned counsel for the parties and meticulously examined the material available on record with due care and caution. Before adjudicating the merits, it is imperative to delineate the narrow confines of this Court's power under Section 115, CPC. This provision is a cornerstone of supervisory jurisdiction, not an appellate one. The Hon'ble Supreme Court of Pakistan has consistently held that a revision is not a regular appeal. Its purpose is to correct gross errors of law or procedure that amount to a failure to exercise jurisdiction or an exercise of jurisdiction illegally or with material irregularity. The High Court, in its revisional jurisdiction: a. Cannot re-appreciate evidence or substitute its own findings of fact for those of the subordinate courts. b. Can only interfere if the findings of the lower court are perverse, based on no evidence, or are the result of a misreading of evidence so grave as to vitiate the exercise of jurisdiction. c. Cannot interfere merely because it might have taken a different view on the facts. Interference is warranted only if the lower court: (a) exercised a jurisdiction not vested in it by law; or (b) failed to exercise a jurisdiction so vested; or (c) acted in the exercise of its jurisdiction illegally or with material irregularity. It is also a settled principle of law that findings, whether on questions of fact or law, however erroneous they may appear, if recorded by a Court of competent jurisdiction, cannot be interfered with by the High Court in exercise of its revisional jurisdiction under Section 115, C.P.C., unless such findings are tainted with jurisdictional defects, illegality, or material irregularity. Reliance is placed on the case of *Muhammad Idrees and others v. Muhammad Pervaiz and others (2010 SCMR 05)*, wherein the Honourable Supreme Court of Pakistan held that: *"It is also settled law that findings on question of fact or law, erroneous the same may be, recorded by the Court of competent jurisdiction, cannot be interfered with by the High Court in exercise of its*

*revisional jurisdiction under section 115, C.P.C. unless such findings suffer from controversial defects, illegality or material irregularity as law laid down by the Privy Council in Hindu Religious Endowments Board, Madras' case PLD 1949 PC 26*". The core issue was one of title. The Plaintiffs discharged their initial burden by producing registered sale deeds. A registered sale deed is a strong piece of evidence that carries a presumption of truth under the law. This evidence was further fortified by the revenue records (Ex.50/A & 50/B) produced by the Defendants' own witness, the Mukhtiarkar (D.W.1), which confirmed the chain of title from the original owner, Ghulam Shabir Arain, down to the Plaintiffs via their predecessor, Mehmood Khan Gopang. Once this prima facie case of title was established, the burden rightly shifted to the defendants to prove their specific assertion that this very land was Government property. The learned Appellate Court correctly identified the fatal deficiency in the defendants' case: a complete absence of documentary proof. It was observed that the Applicants/defendants had failed to produce any documentary evidence, such as an acquisition award or a notification, to establish that the specific parcel of land claimed by the private Respondents/plaintiffs had ever been acquired by the Highways Department or vested in SEPCO as Government property. Furthermore, no site plan of the Grid Station was produced to demonstrate its legally acquired boundaries. The testimony of the Court Witness (C.W.1), the Executive Engineer of Highways, was rightly considered inconclusive. He failed to produce any document linking the general notification regarding the highway's width to the specific khasra number of the suit land. A generic oral statement cannot override a registered title deed. The Appellate Court's finding that the defendants failed to rebut the Plaintiffs' title is a finding of fact based on a correct application of the law of evidence, and it suffers from no perversity. The contention that the Appellate

Court misread or ignored evidence is unfounded. A perusal of the impugned appellate judgments reveals a meticulous analysis of the entire evidence on record. The Court specifically discussed the Plaintiffs' documentary evidence, the testimony of the Mukhtiarkar, and the conspicuous lack of evidence from the defendants. The judgment explicitly addresses the failure of SEPCO to produce any title documents. The Appellate Court did not “travel beyond the pleadings”; it decided the case on the central issue of title and ownership as pleaded. The direction to the Plaintiffs to seek demarcation from the revenue authorities is a prudent and logical step to finally settle the issue of the physical location of the plots. This direction protects the interests of all parties. If, upon demarcation, a Plaintiff's plot is found to fall within the legally defined area of the highway or the Grid Station, the revenue authorities are empowered to cancel the erroneous entries. This part of the decree does not prejudice the Applicant but provides a pragmatic mechanism for implementing the declaration based on ground realities.

10. The learned Appellate Court acted within its jurisdiction as a first appellate court, which has not only the right but the duty to re-appreciate the entire evidence and come to its own conclusions. The conclusions reached are plausible, based on a correct reading of the evidence, and in accordance with established principles of law. The view taken by the Court is a plausible and sustainable view on the basis of the evidence available on record. The mere fact that the Trial Court may have taken a different view does not furnish a valid ground for interference in revision. Reliance is placed on the dictum laid down by the Honourable Supreme Court of Pakistan in the case of *Shah Fakhr-e-Alam and others v. Mst. Shaukat Ara and others (2023 SCMR 2103)*, wherein it was observed that: “We believe that when a trial court and the first appellate court, which are responsible for considering both factual and legal aspects,



*have already taken a specific viewpoint, the learned High Court under the jurisdiction granted by section 115 of the C.P.C. should generally refrain from offering an alternative interpretation of the evidence, unless the lower courts' interpretation is clearly unreasonable or contradicts well-established legal principles”.*

11. This Court is satisfied that the impugned judgments of the learned Appellate Court do not suffer from any jurisdictional error, illegality, or material irregularity. The findings are based on a logical and legal evaluation of the evidence.

12. For the reasons stated hereinabove, both Civil Revision Applications (No. 290 of 2023 and No. 291 of 2023) are found to be devoid of substantive merit and were, accordingly, dismissed. Consequently, both the impugned judgments and decrees dated 22.08.2023, passed by the learned Additional District Judge-IV, Dadu in Civil Appeals Nos.04/2023 & 06/2023 are upheld. No order as to costs is made. The office is directed to transmit a copy of this judgment to the learned courts below along with the respective records. These shall constitute the reasons for the Short Order announced on 12.09.2025.

**JUDGE**

**Ahmed/Pa,**