

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
C.P No.D-419 of 2019

Date	Order with signature of Judge
1.	For orders on office objections
2.	For hearing of main case

18.08.2026

Mr. Abdul Basit Shaikh, advocate for the Petitioner
Mr. Bakhshan Khan Mahar, Advocate for Respondent No.4
Mr. Ghulam Akbar Kuber, Assistant Advocate General

Mohammad Osman Ali Hadi, J: Through the instant Petition, the Petitioner has assailed¹ Order dated 09.01.2019 in Case No. S. Review:-19/2018, passed by the Respondent No.2.

The succinct facts are that an Original Order dated 18.11.1998 was passed by Respondent No. 3, which cancelled the Land Entries bearing Nos. 213-A and 215-A V-F.VII of deh Abid Jagir, from which the Petitioner stood aggrieved.

Against the said Original Order, an² Appeal under Section 161 of Sindh Land Revenue Act 1967, was filed by the Petitioner, who challenged the said cancellation of Entries, against which an Appellate Order dated 27.05.2016 was passed by Respondent No.3.³ The said Appellate Order set-aside the Original Order, in favour of the current Petitioner.

Against the Appellate Order, the Respondent No. 2 passed the Impugned Order dated 09.01.2019, whereby Respondent No. 2 disposed of a Review Petition under section 8 of the Sindh Board of Revenue Act 1967, overturning the Appellate Order and reinstating the Original Order (which was passed by Respondent No. 3), hence restoring cancellation of the stated Entries (being detrimental to the Petitioner).

The Petitioner then approached this Hon'ble Court through the instant Constitutional Petition, whereby he has challenged the Impugned Order, stating the same to be contrary to law.

Learned Counsel for the Petitioner has contended that the Impugned Order was passed by Respondent No. 2 against a Review

¹ Order dated 09.01.2019 in Case No. S. Review:-19/2018

² Appeal under Section 161 of Sindh Land Revenue Act, 1967

³ Available at pg. 31 of the File

Petition, but that no such Review Petition was filed. He asserts that Respondent No. 2 had taken this matter up on a *suo moto* basis for which Respondent No. 2 does not hold any such right, and that the same is in derogation of law as well as contrary to section 8 of Board of Revenue Act 1957 (“**BORA 1957**”), and as such the Impugned Order is liable to be struck down.

Learned Counsel contended that as the Respondent No. 2 acted beyond their legal mandate, and since no other adequate remedy was available to the Petitioner, this instant Constitutional Petition was filed.

Learned Counsel for the Respondents opposes the submissions of the Petitioner, and stated that the Respondent No. 2 does hold *suo moto* powers, and therefore can adjudicate such a Revision Application. He further contended that the matter pertains to disputed questions of fact, which cannot be adjudicated in a Constitution Petition, and therefore the instant Petition is not maintainable and liable to be dismissed.

We have heard the learned Counsel and have gone through the Record available before us.

A perusal of Impugned Order under section 8 of BORA 1957 shows that the Impugned Order has been passed against a Review Petition which was filed, though no such Review Petition is available before us, nor have the Respondents provided us with any copy of the same. For purposes of relevance, section 8 of the BORA 1957 reads as under:-

- “8. Review of orders by the Board.-** (1) *Any person considering himself aggrieved by a decree passed or order made by the Board and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or the order was made, or on account of some mistake or error apparent on the face of the record [or for any other sufficient reason] desires to obtain a review of the decree passed or order made against him, may apply to the Board for a review of judgment and the Board may, after giving notice to the parties affected thereby and after hearing them, pass such decree or order as the circumstances of the case require.*
- (2) *Every application for a review of a decree or order under sub-Section (1) shall be made within ninety days from the date of that decree or order”.*

A simple perusal of the said section 8 of the SBRA 1957 shows that the powers of Review appear to be subject to a Review Application

being filed by any person who is aggrieved by a Decree or Order made by the Board, and does not contain any provision granting Respondent No. 2 *suo moto* powers. Therefore, it can be considered that *suo moto* powers were specifically excluded by the legislature since the statute does not provide for the same.

A further perusal of the Impugned Order shows that the Review Petition itself was time barred as it appears to have been filed in the year 2018, whereas the Appellate Order under Review was passed on 27.05.2016, which illustrates a delay of around two (2) years. Section 8(2) BORA 1957 *ibid.* clearly provides that limitation for filing a Review Application is ninety (90) days from the date of a Decree / Order.

The Impugned Order itself admits that the said Review Petition was time-barred,⁴ but nevertheless continued to proceed and pass an order without showing any condonation for such delay, and the same remained unexplained by Respondent No. 2 (author of the Impugned Order). The basic principles of limitation whereby each days delay is to be explained / justified has gone entirely unmentioned, causing further doubt to the legality of the Impugned Order.

The Impugned Order simply stated the matter pertains to ‘public importance’ and hence the time-bar is overlooked, without providing any explanation as to what exactly the ‘public importance’ was. More pertinently, Respondent No. 2 has failed to mention under which facet of law the issue of (alleged) ‘public importance’ could be legally justified for condoning such a vast delay in the Review Petition, as per BORA 1957? Such a general such statement in itself is not acceptable without providing a legal rationale to condone such delay, which was not done in the Impugned Order.

The second reasoning given in the Impugned Order for allowing the Review was that the record allegedly revealed “clear cut forgery and fabrication”, but yet again the Impugned Order is silent as to what such forgery or fabrication was, nor how the same can fulfil the requisites needed for invocation of the Review Jurisdiction?

⁴ At Para No. 6 @ pg. 59 of the File

It is trite law that a Review under section 8 BORA 1957 can only be invoked in very specific circumstances, such as when there is an error so glaring that a mere perusal of the judgement would show a different conclusion ought to have been reached. A Review is not a retrial or a routine matter to re-hear a case.⁵ The Review jurisdiction is extremely limited in stature, and ought to be used sparingly, only when / if the perimeters defined are strictly met, which has not been done in the Impugned Order.

We therefore observe that the Impugned Order was taken up in a manner beyond its legal mandate, which was especially contrary to section 8 of SBRA 1957; as well as being time barred, without any proper explanation for condonation being offered; and that the Impugned Order did not provide any illumination to substantiate the alleged illegalities it states were committed by the Appellate Order.

In light of the forgoing, we find that the Impugned Order is unlawful and without jurisdiction, and is hereby accordingly set-aside.

This Petition is allowed.

JUDGE

JUDGE

Faisal Mumtaz/PS

⁵ Reliance can be placed by a Judgement of this Division Bench in 2018 CLC 1268