

Judgment Sheet

HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Civil Revision Application No.S-18 of 2023

[Mst.Naveed v. Muzaffar Ahmed and others]

Applicant by : Rana Raheel Mehmood Rajput, Advocate

Respondents No.1 to 8 by : Nemo.

Respondent No.9 by : Mir Qadir Bux Talpur, Advocate

Respondents No.10 to 13 by : Mr.Ayaz Ali Rajper, Assistant A.G Sindh

Date of hearing & decision : **08.04.2026**

Date of reasons : **13.04.2026**

J U D G M E N T

ARBAB ALI HAKRO, J.- The present Civil Revision Application arises out of concurrent orders passed by the learned Senior Civil Judge, Digri (trial Court) and the learned District Judge, Mirpurkhas (appellate Court), whereby the plaint of the applicant was rejected under Order VII Rule 11 CPC. The applicant assails the legality, propriety, and correctness of both orders and seeks the restoration of her suit for adjudication on the merits.

2. The factual matrix of the case is that the applicant/plaintiff instituted F.C. Suit No.13 of 2019 before the trial Court, seeking declaration and permanent injunction. She pleaded that she had purchased 13.75% share (18.21 acres) out of agricultural land measuring 134.33 acres, situated in Deh 152, Tapo Paban, Taluka Digri, through a registered sale deed dated 06.6.2011, executed by the legal heirs of Muhammad Idrees. She further pleaded that the mutation of the purchased land was duly entered in the revenue record on 08.07.2011 and that she remained in cultivating possession through her attorney since 2011. The plaintiff averred that in the year 2019, defendant No.9 attempted to forcibly occupy the suit land on the basis of an order allegedly issued by the revenue authorities. She asserted that the said order dated 01.01.2019, passed by the Additional Deputy Commissioner-I, Mirpurkhas, cancelling mutation entry

No.200 dated 22.10.1999, was passed behind her back, without notice, and was illegal, void, and without jurisdiction. She therefore sought a declaration to that effect and prayed for a permanent injunction restraining interference in her possession.

3. The defendant No.4 filed written statement admitting the plaintiff's purchase, possession and title. He stated that defendant No.9 was attempting to claim more than his share and that any order obtained by him from the revenue authorities was ex parte and not binding.

4. The defendant No.9 contested the suit and denied the plaintiff's claim. He asserted that he was a legal heir of Muhammad Siddique and that the plaintiff had purchased land without official partition, thereby encroaching upon his share. He further contended that the suit was barred by law and did not disclose any cause of action.

5. The defendants No.1 to 9 filed an application under Order VII Rule 11 read with Section 151 CPC, seeking rejection of the plaint on the grounds that the suit was barred under the Sindh Land Revenue Act, 1967, particularly Section 11 of the Sindh Revenue Jurisdiction Act and that the relief sought against the order dated 01.01.2019 fell exclusively within the domain of the revenue hierarchy.

6. The plaintiff filed objections denying the grounds raised in the application. She asserted that the suit was maintainable, not barred by the Sindh Land Revenue Act and disclosed a valid cause of action. She maintained that the civil Court had jurisdiction to examine the legality of the impugned revenue order.

7. After hearing both sides, the trial Court vide order dated 27.09.2021, allowed the application under Order VII Rule 11 CPC and rejected the plaint. The trial Court held that the plaintiff's challenge to the order dated 01.01.2019 was barred under Section 161 of the West Pakistan Land Revenue Act, 1967 and Section 11 of the Sindh Revenue Jurisdiction Act, 1876, as the plaintiff had not exhausted the statutory remedies before the revenue hierarchy.

8. The plaintiff preferred Civil Appeal No.78 of 2021 before the appellate Court. The appellate Court, vide judgment dated 06.04.2023, dismissed the appeal and affirmed the order of the trial Court. The appellate Court held that the suit was barred under Section 172 of the Sindh Land Revenue Act, 1967 and that the civil Court lacked jurisdiction to entertain a challenge to an order passed by the Additional Deputy Commissioner-I. Aggrieved by the concurrent findings, the applicant filed the present Civil Revision Application.

9. Pursuant to directions of this Court, the Mukhtiarkar (Revenue), Digri, submitted a detailed report tracing the revenue history of the land. The report confirms the chain of entries, including entry No.200 dated 22.10.1999, which was cancelled by the Additional Deputy Commissioner-I vide order dated 01.01.2019. The report further states that a portion of the shares purchased by the applicant originates from the cancelled entry and is therefore disputed, whereas the remaining shares purchased from other legal heirs of Muhammad Idrees are not disputed.

10. Learned counsel for the applicant opened his submissions by assailing the concurrent findings of the courts below as being contrary to law and the settled principles governing the exercise of jurisdiction under Order VII Rule 11 CPC. He contended that the trial Court travelled far beyond the scope of the plaint and rejected the suit on grounds which could only be determined after recording evidence. According to him, the plaint disclosed a clear cause of action, founded upon the applicant's registered title, long-standing possession, and the alleged illegal attempt by respondent No. 9 to dispossess her by relying upon an ex parte revenue order dated 01.01.2019. Learned counsel submitted that the civil Court is the Court of ultimate jurisdiction under Section 9 CPC and is competent to examine allegations of mala fide, want of jurisdiction or illegal exercise of authority by revenue officers. He argued that the applicant had not sought correction of revenue entries simpliciter, but had challenged an order passed without notice, in excess of jurisdiction and in violation of her vested rights flowing from a registered sale deed. Such challenge, he maintained,

could not be shut out by invoking the bar of the Sindh Land Revenue Act. He further argued that the learned courts below failed to appreciate that even if one of the prayers was not maintainable, the plaint could not be rejected in its entirety if any part of the relief was triable. Reliance was placed on the principle that pleadings control relief and not by the manner in which the prayer is couched. Learned counsel submitted that the rejection of the plaint amounted to a denial of access to justice and that the courts below misapplied Section 172 of the Sindh Land Revenue Act, which, according to him, did not oust the jurisdiction of the civil Court in cases involving allegations of mala fide or violation of mandatory legal requirements. He lastly submitted that the impugned orders suffer from material irregularity and jurisdictional error, warranting interference in revisional jurisdiction.

11. Conversely, learned counsel appearing for the legal heirs of respondent No.9 supported the impugned orders and submitted that the suit was wholly barred under the statutory scheme of the Sindh Land Revenue Act, 1967. He argued that the gravamen of the applicant's suit was the challenge to the order dated 01.01.2019 passed by the Additional Deputy Commissioner-I, Mirpurkhas, whereby mutation entry No.200 was cancelled. Such an order, he submitted, was appealable under Section 161 of the Act, and the applicant could not bypass the statutory hierarchy by directly approaching the civil Court. Learned counsel contended that the civil Court had no jurisdiction to entertain matters falling within the exclusive domain of revenue authorities, particularly where the dispute pertained to pedigree, inheritance and mutation entries. He submitted that the applicant's claim was premised on a share that itself emanated from a mutation entry, which was subsequently cancelled by the competent revenue authority after issuance of repeated notices and publication. Thus, according to him, the applicant's title was inherently defective and could not be adjudicated by a civil Court. He further argued that the plaint did not disclose any cause of action against respondent No.9 and that the applicant had attempted to convert a revenue dispute into a civil suit merely to perpetuate

possession over land which, according to him, fell within the share of respondent No.9 after proper partition. Learned counsel submitted that both courts below had correctly applied Section 172 of the Sindh Land Revenue Act and the bar contained in the Sindh Revenue Jurisdiction Act, 1876 and that no illegality or material irregularity had been committed, warranting interference.

12. Learned Assistant A.G. Sindh, appearing for the official respondents, adopted the reasoning of the courts below and submitted that no public law element or violation of any statutory duty had been demonstrated by the applicant. He argued that the impugned revenue order was passed after issuance of numerous notices and publications and that the applicant's remedy, if any, lay before the appellate forum provided under Section 161 of the Sindh Land Revenue Act. He submitted that the civil court's jurisdiction stood expressly excluded in matters relating to mutation, pedigree and entries in the record of rights and that the applicant's suit was a direct attempt to circumvent the statutory mechanism. Learned A.A.G. further argued that the applicant had failed to exhaust the alternate remedy available under the special law. Therefore, the suit was rightly rejected under Order VII Rule 11 CPC. He maintained that the concurrent findings were well-reasoned, based on a proper appreciation of the statutory bar and did not suffer from any jurisdictional defect warranting interference in revision.

13. Heard. Perused the record.

14. The present Civil Revision Application calls into question the concurrent findings of the Courts below, whereby the plaint of the applicant's suit was rejected under Order VII Rule 11 CPC on the premise that the suit was barred under Sections 161 and 172 of the West Pakistan Land Revenue Act, 1967. The central issue requiring determination is whether, on the averments contained in the plaint, the suit was barred by law to justify rejection at the threshold, or whether triable issues existed which ought to have been adjudicated upon after framing of issues and recording of evidence.

15. The plaint, when read as a whole, discloses that the applicant purchased 13.75% share of the agricultural land through a registered sale deed dated 06.6.2011 and that the mutation of the purchased land was duly sanctioned in her favour vide entry No.27 dated 17.3.2012. The plaint further avers that she has remained in cultivating possession through her attorney since the year 2011, and that her possession was disturbed only when respondent No.9 attempted to forcibly occupy the land by relying upon an order dated 01.01.2019, passed by the Additional Deputy Commissioner-I, Mirpurkhas, cancelling mutation entry No.200 dated 22.10.1999. It is specifically pleaded that the said order was passed behind her back, without notice and in excess of jurisdiction.

16. The report of the Mukhtiarkar, Digri, submitted before this Court, assumes significance. In paragraph No. 7 thereof, it is expressly recorded that the applicant purchased the land from the legal heirs of Muhammad Idress and also purchased a share from the legal heirs of Sanaullah through a registered sale deed dated 18.7.20211 and that the mutation in her favour was duly entered as entry No.27 dated 17.3.2012. Despite this admitted position, the Additional Deputy Commissioner-I proceeded to cancel the foundational entry No.200 without issuing notice to the applicant, although her title and mutation were directly traceable to the entry that was cancelled. The absence of notice to a recorded owner whose rights were bound to be affected renders the order prima facie void for want of due process.

17. The courts below proceeded on the assumption that the challenge to the order of the Additional Deputy Commissioner-I was barred under Sections 161 and 172 of the Land Revenue Act. This approach, however, overlooks the settled distinction between (i) matters falling exclusively within the jurisdiction of revenue authorities and (ii) matters where the impugned revenue action affects civil rights, is alleged to be void, mala fide or passed without jurisdiction. In such cases, the jurisdiction of the civil Court is not ousted.

18. Section 172 of the Land Revenue Act excludes the jurisdiction of civil courts only in matters which the revenue authorities are empowered to decide under the Act. The exclusion does not extend to cases where the revenue order is alleged to be void, passed without notice, or where the dispute pertains to title. The Supreme Court in the case of **Rasta Mal Khan**¹ held that exclusion of civil Court jurisdiction applies only to correction of entries made in performance of revenue duties "without touching the rights of persons in land" and that where entries interfere with rights in land, the aggrieved person may seek declaration under Section 53 of the Land Revenue Act or Section 42 of the Specific Relief Act. The dispute in the present case directly concerns the applicant's title and possession, and the impugned order admittedly affects her vested rights.

19. The principle was reiterated in the case of **Ameer Ahmed**², where this Court held that even if revenue remedies were not exhausted, a plaint could not be rejected where triable issues existed regarding title, fraud or void revenue action. The Court emphasised that where a party derives title from a registered sale deed and alleges fraudulent or illegal mutation, the civil Court must examine the matter on evidence rather than reject the plaint summarily.

20. The Supreme Court in the case of **Ahmed Ali Talpur**³ has reaffirmed that Order VII Rule 11 CPC cannot be invoked where triable issues arise, particularly where allegations of fraud, void orders, or violations of mandatory legal requirements are pleaded. The Court held that piecemeal rejection of the plaint is impermissible and that even one maintainable prayer suffices to sustain the plaint. The Court further held that mixed questions of law and fact must be tried.

21. Applying these principles, the plaint in the present case raises substantial questions requiring adjudication. The applicant asserts registered title and long-standing possession, and alleges that the revenue order was passed without notice, in excess of jurisdiction, and is being used to forcibly

¹ Rasta Mal Khan v. Nabi Sarwar Khan (1996 SCMR 78)

² Ameer Ahmed v. Province of Sindh (2023 MLD 561)

³ Ahmed Ali Talpur v. Sub-Registrar Latifabad (PLD 2025 SC 302)

dispossess her. These allegations cannot be brushed aside at the threshold. Whether the order dated 01.01.2019 is void, whether it affects the applicant's title, whether respondent No.9 has any lawful claim, and whether the applicant's possession is protected are all matters requiring evidence.

22. Learned courts below also overlooked the fact that the applicant's suit was not merely for correction of revenue entries but sought declaration of her title, declaration of the impugned order as void and permanent injunction against dispossession. These are civil rights falling squarely within the jurisdiction of the civil Court. The bar under Section 172 does not apply to suits involving title, fraud, or void orders. The Supreme Court in **Rasta Mal Khan** (supra) expressly held that such suits are triable by civil courts.

23. The impugned order of the Additional Deputy Commissioner-I, on its face, suffers from jurisdictional defects. The applicant was a recorded owner by virtue of a registered sale deed and mutation entry No.27. The cancellation of the foundational entry No.200 without notice to her violates the mandatory *audi alteram partem* rule. A void order can always be challenged before a civil Court, and the civil Court is competent to examine its legality.

24. Both the courts below further erred in holding that the plaint did not disclose a cause of action. The plaint clearly narrates the applicant's purchase and possession, the respondent No. 9's attempted dispossession, and the impugned revenue order. These averments constitute a complete cause of action. Weakness of proof is not a ground for rejection of plaint.

25. The rejection of the plaint also violates the principle that a plaint cannot be rejected piecemeal. Even if the prayer challenging the revenue order were assumed to be barred (which it is not), the prayers for a declaration of title and an injunction are maintainable. The Supreme Court, in the case of *Ahmed Ali Talpur* (supra), has categorically held that if even one prayer is maintainable, the plaint cannot be rejected.

26. The jurisdiction of this Court under Section 115 CPC is supervisory and is attracted where the subordinate courts have exercised jurisdiction illegally or with material irregularity. The concurrent orders suffer from misreading of the plaint, misapplication of the statutory bar and failure to apply the settled principles governing Order VII Rule 11 CPC. The courts below have acted with material irregularity in rejecting the plaint despite the existence of triable issues.

27. In view of the above discussion, the impugned Judgment, decree and order cannot be sustained. The plaint discloses a clear cause of action, raises substantial questions of title, possession and legality of the impugned revenue order and is not barred by Sections 161 or 172 of the Land Revenue Act. The rejection of the plaint amounts to a denial of access to justice.

28. For the foregoing reasons, this Civil Revision Application is **allowed**. The order dated 27.9.2021 passed by the learned Senior Civil Judge, Digri and the judgment dated 06.4.2023 and decree dated 13.4.2023, passed by the learned District Judge, Mirpurkhas, are set aside. The plaint is restored to its original position. The trial Court shall proceed with the suit in accordance with law, frame appropriate issues, record evidence, and decide the matter on the merits expeditiously. Parties shall bear their own costs.

29. Before parting with this order, it is clarified that the observations made hereinabove are tentative in nature and confined solely to the adjudication of the present Civil Revision Application. Nothing stated in this order shall prejudice the rights of either party, nor shall any remark be construed as an expression on the merits of the case. The trial Court shall examine the evidence independently and decide the suit strictly in accordance with the law, uninfluenced by any observation contained in this judgment.

Above are the reasons for my short order dated 08.4.2026.

JUDGE