

Judgment Sheet

HIGH COURT OF SINDH CIRCUIT COURT LARKANA

Civil Revision No. S-71 of 2025

Applicants : 1) Jameel Ahmed s/o Sardar Khan
2) Nasir Khan s/o Sardar Khan
3) Mst. Bibi Johar (deceased) through LRs i.e. applicants No.1 & 2.
4) Tariq Mehmood s/o Rozi Khan Durani,

**Through Mr. Shakeel Ahmed Abro
Advocate.**

Respondent No.1 : Adhal s/o Darya Khan, Shar (deceased)
through L.Rs:
1(a). Dur Muhammad s/o Adhal Shar Baloch
1(b). Wahid Bux s/o Adhal Khan Shar
1(c). Mst.Mehnaz Khatoon d/o Adhal Shar
1(d). Mst.Hasban Khatoon d/o Adhal Shar
1(e). Mst.Shabiran d/o Adhal Shar
1(f). Mst.Azeeman d/o Adhal Shar
1(g). Mst.Bashiran Khatoon d/o Adhal Shar
1(h). Mst.Nabab Khatoon d/o Adhal Shar

Through Mr.Naushad Ali Tagar Advocate.

Respondent No.2 To 8 : **Through Mr.Abdul Waris Bhutto,
Assistant Advocate General.**

Date of hearing : **25.11.2025**

Date of Decision : **25.11.2025**

J U D G M E N T

ARBAB ALI HAKRO, J.- Through this Civil Revision Application under Section 115 C.P.C, the applicants have impugned the Judgment and Decree dated 25.03.2025 passed by the learned VII-Additional District Judge, Larkana ("**the appellate Court**") in Civil Appeal No.131 of 2024, whereby the Order dated 22.10.2024 of the Senior Civil Judge-II, Larkana ("**the trial Court**"), rejecting the plaint in F.C. Suit No.97 of 2024, was set aside and the matter was remanded for trial.

2. Facts, in brief, are that the plaintiffs/respondents, being legal heirs of Adhal s/o Darya Khan (deceased), instituted a suit for

Declaration, Cancellation and Permanent Injunction in respect of agricultural land comprising Survey Nos 182, 812 and 161, total area 09-16 acres, situated in Deh Dara Gad, Tapo Dhamrah, Taluka Larkana. They asserted that their predecessor purchased the suit property from Defendants Nos.1 to 3 through a registered sale deed dated 05.03.1995 for a consideration of Rs.56,000/-, followed by mutation in Revenue Entry No.234 dated 16.03.1998. They claimed continuous possession, cultivation, and payment of land revenue, and, upon their father's death, lawfully inherited the property. It was further alleged that in the year 2020, Defendants Nos.1 and 2, in collusion with revenue officials, attempted to dispossess them, fabricated Revenue Entry No.148 dated 20.04.2021, and subsequently executed a sale deed dated 16.06.2024 in favour of Defendant No.4, followed by Revenue Entry No.215 dated 01.07.2024. The plaintiffs sought declarations of ownership, cancellation of the impugned entries and sale deed, and permanent injunction restraining interference with their possession.

3. Upon issuance of summons, the applicants/defendants duly entered an appearance. They contested the suit, and they invoked the provisions of Order VII Rule 11 CPC, by moving an application seeking rejection of the plaint on the grounds of statutory bar under Section 42 of the Specific Relief Act, Section 11 of the Sindh Revenue Jurisdiction Act, 1876 and Section 172 of the Land Revenue Act. The said application was heard and allowed by the trial Court vide Order dated 22.10.2024, whereby the plaint was rejected.

4. The above Order dated 22.10.2024, whereby the learned trial Court rejected the plaint under Order VII Rule 11 CPC, was thereafter assailed by the plaintiffs/respondents through Civil Appeal No.131 of 2024 before the appellate Court. The appellate Court, upon hearing the parties, allowed the appeal and set aside the dismissal order, remanding the

matter to the trial Court for decision on the merits. The applicants/defendants, being aggrieved by and dissatisfied with the Judgment and Decree dated 25.03.2025 passed by the learned appellate, have now invoked the revisional jurisdiction of this Court through the instant Civil Revision Application.

5. At the very outset, learned counsel for the applicants contended that the Order dated 22.10.2024, passed by the learned trial Court rejecting the plaint under Order VII Rule 11 CPC was well-reasoned and in accordance with law, as the suit was barred by statute. He submitted that the plaintiffs had sought declaration of ownership on the basis of Revenue Entry No.234 dated 16.03.1998, which had already been cancelled by the Deputy Commissioner, Larkana, vide Order dated 19.08.2020, upon verification by the Sub-Registrar that no such registered sale deed existed under No.1506. Learned counsel argued that the plaintiffs, despite knowledge of the cancellation order, never challenged the same before the competent revenue appellate or revisional forum. Thus, their suit was hit by Section 11 of the Sindh Revenue Jurisdiction Act, 1876, which mandates exhaustion of remedies before approaching the Civil Court. He further submitted that jurisdiction over the legality of revenue entries lies exclusively with revenue authorities under Section 172 of the Land Revenue Act, and therefore, the plaint was rightly rejected. He emphasized that the appellate Court misapplied the law in remanding the matter, as once a suit is barred by statute, recording of evidence is a futile exercise. In support of his contentions, learned counsel placed reliance on the cases reported as **2008 SCMR 1272 and 2014 CLC 1334.**

6. Conversely, learned counsel appearing for the private respondents/plaintiffs supported the impugned Judgment of the appellate Court. He argued that the plaintiffs had lawfully purchased the suit

property through a registered sale deed dated 05.03.1995, and that mutation was duly effected in Revenue Entry No. 234 dated 16.03.1998. He submitted that the plaintiffs remained in peaceful possession, cultivated the land, and paid land revenue until the defendants attempted to dispossess them. He contended that the cancellation of Entry No. 234 was collusive, malafide, and carried out without lawful authority, and that the plaintiffs were never afforded an opportunity of hearing. He further argued that the defendants fabricated subsequent entries, including Entry No.148 dated 20.04.2021 and Entry No.215 dated 01.07.2024, and executed a managed sale deed dated 16.06.2024, all of which are liable to be cancelled. Learned counsel submitted that the Civil Court, being a Court of plenary jurisdiction under Section 9 CPC, is competent to adjudicate disputes of title and ownership, particularly where allegations of fraud, collusion, and ultra vires acts of revenue authorities are involved. He maintained that the appellate Court rightly remanded the matter for trial, as the plaintiffs' claim could not be dismissed summarily without recording evidence.

7. Having considered the pleadings of the parties, the arguments advanced by their learned counsel and the Order and Judgment of both the trial and appellate Courts, the central controversy revolves around whether the suit was rightly rejected under Order VII Rule 11 CPC, or whether the matter required adjudication on merits by the trial Court.

8. It is an admitted and incontrovertible position on record that the Deputy Commissioner, Larkana, vide Order dated 19.08.2020, proceeded to cancel Revenue Entry No.234 dated 16.03.1998, which itself was predicated upon a registered sale deed dated 05.03.1995. The fulcrum of the plaintiffs' claim of ownership emanates directly from that registered instrument, which, by its very nature, constitutes a document

of title and not a mere revenue entry. Once the substratum of the controversy is a registered conveyance, the *lis* transcends the limited domain of mutation entries and squarely metamorphoses into a title dispute. It is a well-settled and time-honoured principle of law, fortified by consistent pronouncements of the superior Courts, that questions relating to proprietary rights and title cannot be conclusively adjudicated upon by revenue officers, whose jurisdiction is confined to fiscal administration and maintenance of the record of rights. The revenue hierarchy, however, is *coram non judice* when it arrogates unto itself the determination of civil proprietary rights. Such adjudication falls within the exclusive plenary jurisdiction of the Civil Courts under Section 9 CPC, which are the ultimate fora for deciding disputes of a civil nature, unless expressly or impliedly barred. Therefore, the cancellation of an entry by the Deputy Commissioner, even if premised on verification of registration, cannot, *ipso facto*, extinguish or nullify the proprietary rights claimed under a registered sale deed. The law is trite that title disputes are to be tested on the anvil of civil adjudication, where evidence is recorded and rights determined, not within the truncated confines of revenue administration.

9. In this regard, Section 53 of the Sindh Land Revenue Act assumes decisive relevance. The provision expressly empowers any person aggrieved by an entry in the record-of-rights to seek a declaratory decree before the Civil Court. This statutory mechanism is a clear legislative recognition that disputes arising from cancellation or alteration of entries are not to be conclusively resolved within the revenue hierarchy. The plaintiffs, who assert both ownership under the registered sale deed dated 05.03.1995 and continued possession and cultivation of the suit property, fall within the protective scope of this provision.

10. The Deputy Commissioner's Order dated 19.08.2020, cancelling Entry No.234, may regulate the revenue record but cannot

extinguish proprietary or possessory rights flowing from a registered conveyance. Such questions of title and possession are quintessentially civil in nature and must be adjudicated upon evidence by the Civil Court under its plenary jurisdiction conferred by Section 9 CPC. To hold otherwise would be to enlarge the authority of revenue officers beyond their statutory remit and render Section 53 nugatory.

11. Furthermore, issues have already been framed by the trial Court, one of which specifically concerns the maintainability of the suit. Once issues are settled, the proper course is to record evidence and decide them on the merits. Summary rejection of the plaint under Order VII Rule 11 CPC, without adjudicating the framed issues, was premature.

12. It is also of material significance that subsequent registered sale deeds have come into existence, most notably the deed dated 16.06.2024 executed in favour of Defendant No.4. The execution of such instruments has generated competing and overlapping claims of ownership, thereby transforming the controversy into one of title and validity of registered conveyances, rather than a mere dispute over mutation entries. Once rival registered instruments are placed on record, the matter assumes the complexion of a substantive civil dispute, which by its very nature cannot be conclusively adjudicated within the narrow confines of the revenue hierarchy. The jurisdiction of revenue officers is circumscribed to fiscal entries and administrative record-keeping; they are *coram non judice* when called upon to pronounce upon the authenticity or legal efficacy of registered deeds. Such questions are quintessentially civil in nature and must be resolved by the Civil Court under its plenary jurisdiction conferred by Section 9 CPC, upon proper framing of issues and recording of evidence. The existence of successive sale deeds thus reinforces the necessity of judicial determination, for only a Civil Court is

competent to weigh the validity of instruments, adjudicate competing claims, and pronounce upon proprietary rights with finality.

13. The plenary jurisdiction of Civil Courts under Section 9 CPC is unequivocal: "Courts shall have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred." This provision embodies the foundational principle that Civil Courts are the ultimate fora for adjudicating disputes of proprietary rights, unless the legislature has in clear and unmistakable terms excluded their cognizance. In the present controversy, no such express bar exists against suits involving title disputes arising from registered sale deeds. The exclusionary clause in Section 172 of the Sindh Land Revenue Act, 1967, is confined to matters falling strictly within the fiscal and administrative domain of revenue officers, such as mutation, assessment, and the collection of land revenue. It does not extend to disputes concerning ownership, validity, or enforceability of registered instruments, which are quintessentially civil in nature.

14. For the foregoing reasons, this Civil Revision Application is **dismissed**. The impugned Judgment and Decree dated 25.03.2025 of the learned appellate Court, remanding the matter to the trial Court, is upheld. The trial Court shall proceed to record evidence on the framed issues and decide the suit on the merits, uninfluenced by any observations herein. Parties are left to bear their own costs.

JUDGE