

**IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD**

C.P. No.D-1270 of 2018

Before:

Mr. Justice Abdul Maalik Gaddi

Mr. Justice Adnan-ul-Karim Memon

Jhando Khan

Petitioner

VERSUS

Province of Sindh through Secretary Revenue & others

Respondents

Date of hearing & Decision: 12.08.2020

Mr. Muhammad Hashim Bajeer, advocate for the petitioner.

Mr. Allah Bachayo Soomro Additional Advocate General, Sindh.

ORDER

Adnan-ul-Karim Memon, J: - Through instant petition, the petitioner has called in question the letter No. Reader/SMBR/ SROR-40/2016-498, dated 13.11.2017 issued by Senior Member Board of Revenue Sindh Hyderabad whereby his Review Petition was returned to him with certain reasoning.

2. In brief, the case of the petitioner as per pleadings is that the Agricultural land 40- 00 Acres of Deh Redhi Taluka Khairpur Nathan Shah District Dadu was granted to his grandfather Bakshal (Alias) Bakshoo by British Government, therefore he claims his right over the subject land; that opponent Dost Mohammad & others in collusion with official respondents i.e. Mukhtiarkar K.N Shah and Tapedar of the beat managed a fake agreement between Jhando Khan and one Lali Mal S/o Shawan Das mortgaging the land in question, depriving him from his valuable inherited rights in the property; that respondents 11 to 15 have no title document in their favour and the land has never been transferred to them legally and all the papers in respect of the said land relied upon by respondents 11 to 15 were managed in collusion with the revenue staff and were not sustainable in law; that the official respondents acted illegally in collusion with private respondents. He lastly prayed for setting aside the impugned letter dated 13.11.2017 issued by Senior Member, Board of Revenue Government of Sindh.

3. The official respondents filed comments controverted the allegations leveled by the Petitioner.

4. We have queried from learned counsel whether the impugned findings of Senior Member Board of Revenue Sindh have adversely affected his rights, or whether he possesses any title documents of the subject land. In reply to the query, learned counsel has submitted that the findings of respondent No.6 referring the matter to Deputy Commissioner Dadu to take action against the petitioner under Section 23 and 24 of the Colonization of Government Land Act was not called for which action was assailed before the Senior Member Board of Revenue Sindh Hyderabad, however his Review Petition was returned to him without adjudication vide order dated 13.11.2017. It is contended that the subject land is protected under the law; therefore, the validity of the same cannot be called in question by the Respondents. Learned counsel while trying to satisfy the court about maintainability of this petition has urged that, the report of Mukhtiarkar Taluka Khairpur Nathan Shah District Dadu, with regard to subject land was / is erroneous and based upon malafide intention; that he wrongly opined that the subject land was / is Government land; that the findings of Director (E&I) Board of Revenue Sindh was based upon assumption thus liable to be discarded.

5. We have heard learned counsel for the petitioner on the point of maintainability of the instant petition and perused the material on record.

6. The pivotal question in the present proceedings is whether the Senior Member Board of Revenue had the jurisdiction to entertain the Review Application of the petitioner in the circumstances?

7. We have noticed that the scope of review under Section 8 of the Sindh Board of Revenue Act, 1957 is confined to the following matters:-

- i. 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 order was made;
- ii. Mistake or error apparent on the face of the record;
- iii) Any other sufficient reason.

8. The following are the settled principles of law to decide the review application:-

- i. Every order or judgment pronounced by the Court is presumed to be a considered, solemn and final decision on all points arising out of the case;
- ii. If the Court has taken a conscious and deliberate decision on a point of fact or law, a review petition will not lie;

- iii. iii) The fact that the view canvassed in the review petition is more reasonable than the view found favour with the Court in the judgment/order of which review is sought, is not sufficient to sustain a review petition;
- iv. iv) Simpliciter the factum that a material irregularity was committed would not be sufficient to review a judgment/order but if the material irregularity was of such a nature, as to convert the process from being one in aid of justice to a process of injustice, a review petition would lie;
- v. Simpliciter the fact that the conclusion recorded in a judgment/order is wrong does not warrant review of the same but if the conclusion is wrong because something obvious has been overlooked by the Court or it has failed to consider some important aspect of the matter, a review petition would lie;
- vi. vi) If the error in the judgment/order is so manifest and is floating on the surface, which is so material that had the same been noticed prior to the rendering of the judgment the conclusion would have been different, in such a case a review petition would lie;
- vii. The power of review cannot be invoked as a routine matter to re-hear a case which has already been decided;
- viii. Review is not a re-hearing of the main case and hence rearguing a case falls outside the scope of review;
- ix. The scope of review is very limited and it cannot be used as a substitute for a regular appeal.

9. We have seen that Petitioner's prayer to quash letter No. Reader/SMBR/ SROR-40/2016-498, dated 13.11.2017 issued by respondent No.2 / Reader to Senior Member Board of Revenue Sindh Hyderabad whereby his review petition was returned to him seems to be not maintainable before this Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, for the simple reason that he has remedy for redressal of his grievances under the Revenue law and it is for him to take resort.

10. In view of the above factual as well as legal position of the case, we are of the view that this petition is without any merits and is accordingly dismissed along with listed application(s). However, the petitioner would be at liberty to approach the proper forum for redressal of his grievance, if any.

JUDGE

JUDGE