Judgment Sheet

IN THE HIGH COURT OF SINDH CIRCUIT COURT LARKANA

Civil Revision No.S-114 of 2019

Applicants	:	(1)	Ali Gohar s/o Late Abdul Rehman (Deceased) through L.R.s:-
		(a)	Iqbal Ahmed s/o Late Ali Gohar
		(b)	Mushtaq Ahmed s/o Late Ali Gohar
		(c)	Abdul Rehman s/o Late Ali Gohar
		(d)	Muhammad Azam s/o Late Ali Gohar (deceased) through LRs Sr. No.(a) to (c) Sr. No.(b) attorney of Sr. No.(a) & (c) **through Mr. Rafiq Ahmed K. Abro Advocate**
Respondents	:	(1)	Mumtaz Ali s/o Late Rasool Bux (Deceased) through L.R.s: -
		(A-1)	Hussain Bux s/o Late Mumtaz Ali
		(A-2)	Pir Bux s/o Late Mumtaz Ali
		(A-3)	Nadeem Ali s/o Late Mumtaz Ali
		(A-4)	Mst.Zebul Khatoon d/o Late Mumtaz Ali
		(A-5)	Mst. Gulzar wd/o Late Mumtaz Ali
		(2)	Mst.Dalat Khatoon d/o Late Rasool Bux
		(3)	Mst.Ghulam Shabiran wd/o Late Rasool Bux
		(4)	Imam Bux s/o Late Rasool Bux
		(5)	Mst. Rashidan Begum d/o Late Rasool Bux
		(6)	Mst. Hamidan Begum d/o Late Rasool Bux
			Sr. No.(A-2) to 6 through Attorney Sr. No.(A-1)
		(7)	Mst.Aneezan Begum d/o Late Rasool Bux (**Minor**)
		(8)	Mst.Umedan Begum d/o Late Rasool Bux (**Minor**)
		(9)	Mst.Aneeta Begum d/o Late Rasool Bux **(Minor)**
		(10)	Waris Ali s/o Late Rasool Bux **(Minor)**
		(11)	Shabir Ahmed s/o Late Rasool Bux **(Minor)**
			through Mr Mumtaz Ali Jessar, Advocate
		(12)	Province of Sindh through Senior Member Board of Revenue

(13) Member (Judicial) Board of Revenue

(14) Executive District Officer (Rev.) Shikarpur

(15) District Officer (Rev.) Colonization Officer, Shikarpur

(16) Deputy District Officer (Rev.) Garhi Yasin

(17) Mukhtiarkar (Rev.) Asst. Colonization Officer, Garhi Yasin

(18) Sub-Registrar, Garhi Yasin

through Mr. Abdul Waris Bhutto, Asst. A.G.

Dates of hearing : **04.5.2023 & 08.5.2023.**

Date of Decision : **26.5.2023.**

JUDGMENT

ARBAB ALI HAKRO, J.- First Class Suit No.11 of 2010 filed by respondents No.1 to 11 against the applicants and respondents No.12 to 17 for Declaration and Possession, was decreed by the trial Court viz., 2nd Senior Civil Judge, Shikarpur vide judgment dated 02.11.2017 and decree dated 06.11.2017, respectively. However, the Civil Appeal No.57 of 2017, filed by the applicants against such decree, was dismissed by learned appellate Court i.e. IIIrd. Additional District Judge/MCAC, Shikarpur vide judgment dated 28.9.2019 and decree dated 01.10.2019, respectively. Hence, the applicants have impugned the concurrent findings of both the Courts below before this Court through this Civil Revision Application. Besides, the applicants also moved an application for recording additional evidence by the Appellate Court in terms of Order XLI, Rule 27 of C.P.C. ("**the Code**") for the production of relevant documents, i.e. i) Original Pass Book, ii) Form VII-B, and iii) two Dhal receipts in name father of the applicants, but same was dismissed by the concerned Court vide Order dated 16.09.20019.

2. The case at hand presents transient elements, characterized by the

fact that the respondent No.1 to 11 filed the Suit as mentioned above, assertedly claiming that an agricultural land bearing Survey No. 374 (7-31) acres and S. No.375 (4-24) acres, total admeasuring 12-15 acres, situated in Deh Abdul Rahim Dakhan, Tapo Dakhan, Taluka Garhi Yasin, District Shikarpur (**"the suit land"**) was Government Na-Kabuli land, which was secretly granted/allotted to the father of applicants on 10.04.1991 by Colonization Officer Guddu Barrage Sukkur on cultivation(*Harap)* conditions for permanent tenure. It is further asserted that the father of respondents No.1 to 11, namely, Rasool Bux was a peasant(*Hari)* of the suit land, who held possession of the same and derived benefits from the yields of a single acre out of S. No.375, while on some part he had constructed *Katcha-pucca* house and rest of the land remained unutilized for cultivation purpose. On 16.01.2006, the father of the applicants arrived at the Suit land and made known his status as the grantee of the Suit land. In the process, the father of the applicants attempted to dispossess the father of respondents No.1 to 11, who subsequently obtained a certified true copy of the A-Form and filed an Appeal under Section 161 of Land Revenue Act, 1967 (**"the Act of 1967"**) before respondent No.14, who cancelled the grant made in favour of the father of the applicants through an order dated 12.07.2006, directing that the Suit land to be disposed of freshly in open auction/Katchehri. Afterwards, the father of the applicants preferred the Revision Petition under Section 164 of the Act 1967 before respondent No.13, who, through an order dated 31.10.2009, set aside the Order of respondent No.14, hence respondents No.1 to 11 filed F.C. Suit No.11 of 2010, seeking following reliefs: -

i. *To declare that the Order dated; 31.10.2009 passed by defendant No. 2 while relying upon Section 24 of the Colonization of Government Land Act 1912 and the report of Mukhtiarkar dated; 16.06.2006 is illegal, unlawful, unjustified, unwarranted, without applying judicious mind of the application.*

ii. *To further declare that defendant No. 8 is not a legal and lawful grantee of the Suit land in the light of the land grant policy, 1989.*

iii. To further declare that the Act of defendant No. 8 by forcibly dispossessing the plaintiff from the Suit land except in due course of law is illegal and unlawful.

iv. To grant a decree for a permanent injunction against defendant No. 8 by restraining him from selling, alienating, mortgaging or disposing of the Suit land in any manner whatsoever to anybody else till the final decision of the above Suit, and likewise, he may also be restrained from dispossessing or even interfering with the peaceful possession of plaintiffs over the Suit land by himself or through any other persons or agents till the final decision of above suit land and similarly, defendants No. 6 and 7 may also be restrained from keeping any new entry or registering any document of the sale in revenue record in respect of Suit land in favour of anybody else in consideration of suit land. Furthermore, defendant No. 6 may also be restrained from issuing any sell certificate in respect of Suit land in favour of defendant No. 8 based on Order dated; 31.10.2009 passed by defendant No. 2 till the final decision of the above Suit.

v. To award the costs of the Suit to the plaintiff.

vi. To award any other equitable relief to the plaintiff which this Honourable Court deems fit and necessary under the circumstances of the case.

3. The father of the applicants, by filling written statement, contested the Suit. He claimed that the Suit land was *Na-Kabuli* land belonging to the Government, and he was given ownership of it permanently through Guddu Barrage authorities, under cultivation(*Harap)* conditions, on 10.04.1991 through an open Katchehri. He denied that the father of respondents No. 1 to 11/plaintiffs was a peasant(*Hari*) of the Suit land and holding possession thereof or constructed a Katcha/ pacca house. It has been asserted that the father of respondents No.1 to 11 was 'Kamdar' of the prominent Zamindar known as Abdul Raheem *alias* Nadir Hussain Dakhan. According to the directives of said Zamindar, the father of respondents No.1 to 11, filed a Revenue Appeal against the applicant's father. The said appeal was granted; however, against said Order, a Revision Petition under Section 164 of the 1967 Act was filed before respondent No.13. Subsequently, who negated the decision of respondent No.14. Finally, he stated that the Order passed by respondent No.13 is legal, lawful and same is liable to be maintained. In contrast, the Suit of

respondents No. 1 to 11 is liable to be dismissed.

4. Because of the divergent pleadings of the parties, the following issues were settled by the trial Court: -

I. *Whether the suit is maintainable under the law or not?*

II. *Whether the Order of Member Board of Revenue dated 31.10.2009, in view of Section 24 Colonization of Government Lands Act, 1912, is illegal, unlawful, unjustified and liable to be interfered with this Court?*

III. *Whether defendant No.8 was not a lawful grantee of the Suit land and the Act of defendant no.8 dispossessing the plaintiffs from the Suit land was unlawful?*

IV. *Whether the plaintiffs have the right to seek a permanent injunction?*

V. *What should the decree be?*

5. Respondent No.A-1 for self and the attorney of respondents No.A-2 to A-5 & 2 to 6 examined themselves and produced relevant documents supporting their respective claims. In addition to himself, the applicants also examined two other witnesses, including one C.W., who had relevant records. After reviewing the evidence produced by the respondents and hearing both the counsel for the parties, the respondent's Suit was decreed, with no order as to costs. The appellate Court maintained the above findings of the trial Court.

6. It is contended by learned counsel for the applicants that the previous counsel of the applicants didn't seek instructions from the applicants and filed a wrong statement dated 07.4.2017 before the trial Court and due to such a bonafide mistake, the applicants have been deprived of adducing their evidence and production of relevant documents. He submits that the suit land was legally granted to the applicant's father, and such a T.O. Form was issued in favour of the applicant's father. Therefore, respondent No.14 had no jurisdiction to pass the Order dated 12.7.2006, while the Order dated 31.10.2009, passed by respondent No.13, reasonably followed the law. He further urged

that the applicant's father was in physical possession of the Suit land before and after the grant, so also after his death, the applicants being his legal heirs, are in peaceful possession whereof. He also urged that the applicants moved an application u/Order XLI Rule 27 of the Code before the appellate Court for the production of relevant documents as additional evidence, i.e. i) Original Pass Book, ii) Form VII-B, and iii) two Dhal receipts in the name father of applicants, which prove the right, title and interest of the appellants over the suit land, but same has not been considered by the appellate Court and dismissed the application of the applicants. Finally, the learned counsel averred that the Suit might be remanded back to the trial Court by setting aside the impugned judgments and decrees passed by the Courts below. In support of his contentions, he relied upon reported cases ***2020 C.L.C. 31*** *(Sardar Ahmad Hayat and others vs Member (Colonies), Board of Revenue and others)*, ***1994 M.L.D. 1984*** *(Allama Muhammad Inayatullah vs Ghulam Rasool and others)*, ***1994 M.L.D. 1986*** *(Malik Aslam Pervez, Advocate vs Province of Punjab through Secretary, Auqaf Department, Lahore and 15 others)* **PLD 1992 S.C. 822** *((Khurshid Ali and six others vs Shah Nazar)* and ***2016 SCMR 1*** *(Muhammad Ijaz Ahmad Chaudhry vs Mumtaz Ahmad Tarar and others)*.

7. Conversely, the learned counsel for the respondent No.1 to 11, while supporting the impugned judgments of the two Courts below, argued that the documents sought to be produced by the applicants as additional evidence before the trial Court were neither filed by them with their written statement nor filed a list of documents before the trial Court or brought in the notice of trial Court with a statement. However, after closing the side of evidence of respondents, the matter was pending before the trial Court for about 07(seven) months. He further referred to the Certificate issued by Mukhtiarkar (Rev.) Garhi Yaseen and evidence of Hussain Bux and submitted that the above

document and evidence show that the possession of the Suit land with the respondents, hence the possessory right of respondents, is involved in the Suit land. He finally concluded that both the Courts below had not committed any illegality while passing the impugned judgments, and the instant Revision application is liable to be dismissed. He relied upon the case law ***2023 SCMR 159*** *(Mukhtiar Hussain vs Mst. Shafia Bibi),* ***2020 SCMR 300*** *(Moon Enterpriser C.N.G. Station, Rawalpindi vs Sui Northern Gas Pipelines limited through General Manager, Rawalpindi and another)* and ***2016 CLC 740*** *(Abdul Razzak Khamosh vs Province of Sindh through Chief Secretary and four others).*

8. Learned A.A.G. for the official respondents, while refuting the above contentions, argued that instant Revision Application against the concurrent findings is not maintainable under the law. He averred that ground of negligence of their Advocate taken by the applicants in their application under Order XLI, Rule 27 of the Code is no ground to allow them to produce their documents as additional evidence; even otherwise, they have a remedy to sue against their ex-counsel due to his negligence by filing Suit for damages. He also urged that it will be suitable for both parties to avail remedy for a fresh grant. Finally, that the instant Revision Application being devoid of merits is liable to be dismissed.

9. The arguments have been heard at length, and the available record has been carefully evaluated with the able assistance of the learned counsels for the parties. To evaluate whether justice has been dispensed, it is imperative to analyze the concurrent findings recorded by both the Courts below. The thrust and impetus of the arguments advanced by the learned counsel for the applicants are that the previous counsel appearing on behalf of the applicants before the trial Court without seeking instructions from them filed a statement dated 07.4.2017 before the trial Court stating that plaintiffs/ respondents have failed to prove their case. Hence, there is no necessity to

adduce evidence of defendants/applicants. In this respect, I have minutely perused the evidence of plaintiffs/respondents, which reveals that PW-1-Hussain Bux (respondent No.A-1) and P.W-2 Bahadur Khan were examined on 29.10.2016 before the trial Court. In contrast, the remaining two witnesses, Muhammad Hanif and Mansoor Zaman, were examined on 27.4.2017 & 07.10.2017, respectively. I am taken aback by the erudite trial court admitting the statement dated 07.4.2017 at a tardy stage, notably when the plaintiff's evidence was scheduled to be tendered and was yet to be concluded. Here, questions emerge regarding the methodology used by the previous counsel of the applicants to assess and arrive at a conclusion, given that the plaintiffs had not yet concluded the presentation of their evidence. The record further reveals that the trial court did not pass such an Order on such a statement. The learned counsel for the applicants argued that they had placed a circular regarding a complaint filed against their former counsel. It is an established legal principle that the actions of a legal representative are binding on their clients. However, in this instance, the action is not lawful and contravenes procedural regulations. It can negatively impact the applicants' case and deprive them of their right to a just and fair trial.

10. The appellate Court has rendered a decision to dismiss the applicant's application under Order XLI, Rule 27 of the Code based on the following observations: -

> *"The perusal of the record shows that appellants have filed application U/O 41 Rule 27 R/W Section 151 CPC with prayers that original Pass Book in the name of appellant Ali Gohar, true copies of Deh Form VII-B in the name of appellant Ali Gohar and two dhal receipts in respect of suit land may be permitted to be produced by recording their additional evidence at the appellate stage. It is admitted that all the above documents were already in possession of the appellants when the case proceeded before the learned trial Court. However, none of the above documents was produced before the learned trial Court. Even otherwise, their counsel closed the appellants' side, vide statement dated: 07.04.2017 before the learned trial Court. From the conduct of the appellants, it appears that they have remained*

> *negligent and indolent before the learned trial Court, and it is a settled principle of law that application U/0 41 Rule 27 C.P.C. cannot be allowed at an appellate stage to fill up the gap and lacunas. Furthermore, mistake of legal advice or intentional inadvertence of Advocate, as alleged, cannot be allowed to be a good ground for recording additional evidence."*

11. According to the restricted purview of Rule 27(1) of Order XLI of the Code, only a handful of circumstances or conditions are covered where the appellate Court may authorize a party to introduce supplementary oral or documentary evidence in connection with an appeal. The events above or conditions serve as an indicator for a precise situation, as follows: -

a) *Where the Court from whose decree the appeal is preferred had refused to admit evidence which ought to have been admitted, or*

b) *where the appellate Court requires any document to be produced or any witness to be examined to enable it to pronounce judgment, or*

c) *For any other substantial cause.*

12. The language employed in Rule 27 of the source mentioned above elucidates that the initial appellate Court possesses the authority to consider additional evidence solely if, upon scrutinizing the evidence presented by the parties concerned, it determines that the evidence mentioned above is fundamentally flawed or inadequate. Without the inclusion of additional evidence, a verdict cannot be rendered. Furthermore, only additional evidence considered essential by the appellate Court for definitive or substantive resolution of the issue at hand or for other valid reasons may be allowed to be introduced into the official record at the appellate stage. It is inferred that additional evidence may be deemed admissible during the appeals process when a conspicuous deficiency, inadequacy, or imperfection becomes perceptible in the current record and is likewise recognized by the appellate Court upon examination. Whether or not to admit further evidence is

contingent upon a singular criterion: whether the appellate Court deems it necessary "*to enable it to pronounce judgment or for any other substantial cause*." It is within the domain of the appellate Court to make this determination, as the need for supplementary evidence ought to be perceived by the appellate Court exclusively. In such an event, the appellate Court may allow additional evidence on an application by any parties or even *suo motu*. Thus, it can safely be concluded that the expression "*to enable it to pronounce judgment*" means to enable the appellate Court to pronounce a satisfactory and complete judgment; it certainly does not mean that additional evidence should be admitted in appeal in order to enable the appellate Court to pronounce judgment in favour of a particular party; and, the provisions of Rule 27 *ibid* can be legitimately invoked by allowing additional evidence only in cases, where it is impossible for the appellate Court to pronounce judgment based on the evidence available on record.

13. However, the appellate Court dismissed the application under Order XLI, Rule 27 of the Code merely on two grounds i) the applicants remained negligent and indolent before the trial Court, and ii) to fill up gaps and lacuna. In the above context, I may refer to the case of *Ghulam Zohra and eight others vs Nazar Hussain through legal heirs* ***(2007 SCMR 1117)***, wherein Apex Court has held as under:-

> *"The question of filling in the lacunae is not of prime importance because no such word is mentioned in the rule itself. Obviously, additional evidence is always sought about something which happens to have been omitted by a party during the trial. The Appellate Court would have done justice if it had come to the conclusion that the admittance of additional evidence would promote the ends of justice, and the same was required in order to do complete justice between the parties. This must have prevailed as substantial cause for the Appellate Court to admit evidence as mentioned in sub-rule (b) Rule 27 of Order XLI, C.P.C. We are of the view that both the Courts, by not admitting the additional evidence, have passed a 'decree in favour of a pre-emptor having no superior right. This was a bigger irregularity as compared to the admission of additional evidence for which*

substantial cause was available."

14. The judicial record indicates that the appellate Court dismissed the application under Order XLI, Rule 27 of the Code on 16.9.2019 and subsequently rendered a decision on the appeal on 28.9.2019 within 12(twelve) days. It may be assumed that the parties' arguments were also heard during the intervening period. During arguments, the counsel representing respondents No. 1 to 11 contended that the rejection of the application pursuant to Order XLI, Rule 27 of the Code had not been challenged and had attained finality. Therefore, the present Revision application, which pertains to the judgment and decree, cannot be adjudicated upon, even if the Order in question is erroneous or contrary to the law. The scope of the Revisional jurisdiction prescribed under Section 115 of the Code is not limited solely to the grounds invoked in the Revision Application. The scope has been expanded to encompass the rectification of any defect or error committed by a subordinate Court within the purview of superior jurisdiction. The larger bench of Apex Court in the case of *Hafeez Ahmad and others vs Civil Judge, Lahore and others* **(PLD 2012 S.C 400)** has extensively dilated upon *suo motu* authority of the High Court under section 115, C.P.C., wherein it was opined that:-

> *"Such Court may exercise Suo Motu jurisdiction if the conditions for its exercise are satisfied. It is never robbed of its Suo Motu jurisdiction simply because the petition invoking such jurisdiction is filed beyond the prescribed period. Such a petition could be treated as information even if it suffers from procedural lapses or loopholes. Revisional jurisdiction is pre-eminently corrective and supervisory. Therefore, there is absolutely no harm if the Court seized a revision petition and exercised its Suo Motu jurisdiction to correct the errors of the jurisdiction committed by a subordinate Court. This is what can be gathered from the language used in section 115 of the Code, and this is what was intended by the legislature legislating it. If this jurisdiction is allowed to go into the spiral of technicalities and fetters of limitation, the purpose behind conferring it on the Court shall not only be defeated but the words providing, therefore, would be reduced to dead letters. It is too known to be reiterated that the proper place of the procedure is to provide stepping stones and not stumbling blocks in the way of the administration of justice. Since the proceedings before a revisional Court is a proceeding*

> *between the Court and the Court to ensure strict adherence to law and safe administration of justice, the exercise of Suo Motu jurisdiction may not be conveniently avoided or overlooked altogether. The Court exercising such jurisdiction would fail in its duty if it finds an illegality or material irregularity in the judgment of a subordinate Court and yet dismisses it on technical grounds."*

15. Nonetheless, the findings of the trial Court are that the applicants have to pay the instalments for up to 20 years, and T.O. Form is issued, then the restriction period of 20 years has not been completed. There is a breach of the Land Grant Policy of 1989. One legal question about *ultra vires,* both the Courts below failed to consider the jurisdiction and power of Revenue Authorities to entertain the appeal/application of the applicants when the Suit land was not Government land; instead, it was Kabuli land. After issuance of the T.O. Form, the right, titles and interests of applicant's created, and Revenue Authorities become *functus officio.* In this context, I am fortified by a Division Bench decision in *Mitho Khan vs Member, Board of Revenue Sindh, Hyderabad and another* (***PLD 1997 Karachi 299***), wherein it was held as under: -

> *"There is no denial that the petitioner's father had fully paid up the grant, which is also borne out by the entries in the Revenue Record and the orders passed by the Colonization Officer as well as the Additional Commissioner, Hyderabad. It is settled position to law that after the land was acquired, the status of Qabooli land, land grant authorities became functus officio and could not deal with the transfer or grant of such land. At any rate, without the cancellation of grant in favour of the petitioner, disputed land could not be lawfully granted in favour of the respondent, which, on the face of it, is illegal and void."*

16. Furthermore, it should be noted that entry No.202 dated 25.9.2001 in respect of the suit land, which was granted under the Land Grant Policy, has been disputed and contested by both parties through counter-claims relating to possession of the said land. As such, the resolution of this matter lies within the purview of the Civil Court. In particular, the Civil Court has ultimate jurisdiction in determining and adjudicating any disputes among the parties involved, as Section 53 of the Act of 1967 stipulates. It would also be expedient

to examine Section 24 of the Colonization and Disposal of Government Lands Act 1912, which is reproduced as follows:

> *"**24. Power of imposing penalties for breaches of conditions.---** When the Collector is satisfied that tenant in possession of land has committed a breach of the conditions of his tenancy, he may, after giving the tenant an opportunity to appear and state his objections---*
>
> *(a) impose on the tenant a penalty not exceeding one hundred rupees; or*
>
> *(b) order the resumption of the tenancy:*
>
> *Provided that if the breach is capable of rectification, the Collector shall not impose any penalty or order the resumption of the tenancy unless he has issued a written notice requiring the tenant to rectify the breach within a reasonable time, not being less than one month, to be stated in the notice and the tenant has failed to comply with such notice."*

17. Bare reading of the aforesaid Proviso of law itself shows that the Collector shall not impose any penalty or order the resumption of the tenancy unless he has issued a written notice requiring the tenant to rectify the breach within a reasonable time, not being less than one month, to be stated in the notice and the tenant has failed to comply with such notice. In the case of *Horticultural Society of Pakistan and another v. Province of Sindh and others* ***(2005 CLC 1877)***, it was held by the Division Bench of this Court as under:-

> *"Be that as it may it is clear from the terms of section 24 of the Colonization of Government Lands Act itself that the breach being capable of rectification, the Collector in the first instance was mandated to grant reasonable time to the petitioner to rectify the breach. In the event of petitioners' inability to do so within aforesaid time he was required to independently apply his mind and decide either to impose a penalty or order resumption of tenancy. He failed to perform both the statutory obligations and proceeded to act under dictation from the Chief Minister. Even the elementary principles of natural justice were denied. Accordingly we are constrained to hold that the cancellation of lease was mala fide, void and inoperative." (pg. 1880)*

18. The learned trial Court is obligated to examine the provision of Section 24 of the Act, 1912, in its actual perspective in accordance with the law laid down by this Court and Supreme Court. So far as the jurisdiction of the Civil Court is concerned, reference may be made to the well-known decision of

the Supreme Court in the Case of *Abbasia Cooperative Bank and another v. Hakeem Muhammad Ghaus and others* **(PLD 1997 SC 3)**. The Apex Court has held as follows with regard to the jurisdiction of civil courts (emphasis supplied):

> *"It is also well-settled law that where the jurisdiction of the Civil Court to examine the validity of an action or an order of executive authority or a special tribunal is challenged on the ground of ouster of jurisdiction of the Civil Court, it must be shown (a) that the authority or the tribunal was validly constituted under the Act; (b) that the Order passed or the action taken by the authority or tribunal was not mala fide; (c) that the Order passed or action taken was such which could be passed or taken under the law which conferred exclusive jurisdiction on the authority or tribunal; and (d) that in passing the Order or taking the action, the principles of natural justice were not violated. Unless all the conditions mentioned above are satisfied, the Order or action of the authority or the tribunal would not be immune from being challenged before a Civil Court. As a necessary corollary, it follows that where the authority or the tribunal acts in violation of the provisions of the statutes which conferred jurisdiction on it or the action or Order is in excess or lack of jurisdiction or mala fide or passed in violation of the principles of natural justice, such an order could be challenged before the Civil Court in spite of a provision in the statute barring the jurisdiction of Civil Court." (pg. 9)*

19. For the preceding reasons, I conclude that the findings of both the Courts below are not tenable in law. Therefore, the Revision Application is allowed; consequently, the Impugned Judgments & Decrees passed by the Courts below are set aside. The case is remanded to the trial Court to decide its merits after affording a fair opportunity of adducing evidence to the applicants/defendants. However, respondents/plaintiffs also be provided with the opportunity to lead further evidence, if so required. The trial Court is further directed to conclude the trial and decide the Suit on merits in accordance with law and evidence so produced within a period of three months after receipt of this judgment.

JUDGE