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ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
Civil Revision No. S-63 of 2010

DATE	ORDER WITH SIGNATURE OF JUDGE
Applicants	: Ali Khan & others, through Mr. Gulab Rai C. Jesrani Advocate.
Respondents No. 1 to 3	: Distract Officer Forest & others, through Mr. Aijaz Ahmed Bhatti, Advocate.
Respondents No. 4	: Province of Sindh, through Mr. Naimatullah Bhurgari, State Counsel. =====
Date of Hearing	: 21.11.2016
Date of Announced:	: 21.11.2016 =====

J U D G M E N T

ZAFAR AHMED RAJPUT, J- This Civil Revision Application, under Section 115 C.P.C., is directed against the Judgment and decree dated 23.06.2010 and 28.06.2010, respectively whereby, dismissing Civil Appeal No.30 of 2007, the learned Vth Addl. District Judge, Larkana maintained the Judgment dated 29.09.2007 and Decree drawn on 02.10.2007, thereby the learned II-Senior Civil Judge, Larkana dismissed the (Old) F.C. Suit No.32 of 2004 (New) F.C. Suit No.173 of 2005, filed by the applicants/ plaintiffs.

2. The facts giving rise to file the instant civil revision application are that the applicants herein filed aforementioned civil suit against the respondents/ defendants averring therein that the father of applicants No. 1 & 2 and the grandfather of the rest of the applicants, namely, Faiz Muhammad s/o. Khush Muhammad was the owner, title-holder and in possession of survey No. 63 (6.30) 0-30 paisa share-holder, S. No. 64 and 68 (3.30) acres, situated in Deh Nazar Detho, Taluka Ratodero since 1938-39, vide Extract from V.F-VII (*hereinafter referred to as the "suit land"*) and after his death, the applicants being his legal heirs became the owners of the suit land and, as such, they are in

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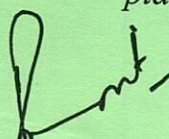
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possession of suit land and paying land revenue assessment to government without any objection. It is the case of the applicants that the respondent No. 3 (Forest Guard, Forest Department, Larkana) came at suit land and asked them to vacate the same as it is Forest Land and; thereafter, the respondents No.1 and 2 time to time called them and issued threats for dispossessing them with police force; hence, cause of action accrued to applicants for filing of civil suit for declaration and permanent injunction.

3. Respondents No. 1 & 2 contested the suit by filing written statement wherein denying the claim of the applicants, they have asserted that the suit land is the property of forest department since the date of publication of Government Gazette Notification, dated 20.10.1885 and the same is reserved for the forest, called as Behman Plantation Forest, and the same is in possession of forest department. It has further been stated that the documents produced by the applicants are bogus and the record produced by the applicants dated 28.12.2003 was prepared on holiday (Sunday) which have been managed by the applicants, who have no right and title over the suit land and they have filed a false suit to usurp the forest land. Respondents No. 3 and 4 have adopted the written statement filed by the respondents No.1 and 2.

4. From divergent pleadings of the parties, the learned trial Court framed following eight issues:

1. *Whether the plaintiffs are owners/title holders of the suit land viz. S. No. 63 (6.30) 0-30 paisa share-holder, 64 and 68 (3.30) acres, situated in Deh Nazar Detho, Taluka Ratodero, by way of inheritance?*
2. *Whether the revenue record produced by the plaintiffs are manipulated, managed, fictitious, forged and bogus documents with forged seal and signatures?*
3. *Whether the suit property is Government forest land and the plaintiffs' have no right or title over the property is suit?*



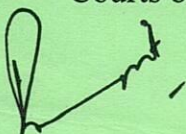
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4. *Whether the plaintiffs are in the possession and enjoyment of the suit land or the defendants?*
5. *Whether any cause of action has arisen to the plaintiffs?*
6. *Whether the plaintiffs are entitled for the relief sought?*
7. *Whether the suit is not maintainable at law?*
8. *What should the decree be?*

5. After recording pro and contra evidence and hearing the arguments of the learned counsel for the parties, the learned trial Court dismissed the applicants' suit with compensatory costs of Rs. 25,000/=, vide judgment dated 29.09.2007 and decree dated 29.09.2007. Being aggrieved, the applicants preferred Civil Appeal No. 30 of 2007, which was also dismissed by the learned Vth Addl. District Judge, Larkana, vide judgment and decree dated 23.06.2010 and 28.06.2010, respectively. It is; thereafter, the applicants have preferred this civil revision application against the concurrent findings of the lower Courts below.

6. I have heard the learned counsel for the parties and perused the material available on record.

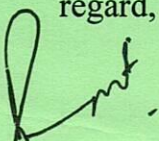
7. It is now well settled principal of law that the powers of High Court in revisional jurisdiction under section 115 C.P.C. are very limited. Even on reappraisal of the evidence if a different view is possible, the High Court cannot substitute its own view and upset the findings of facts concurrently arrived at by the Courts below. Such findings can only be interfered with if the Courts below have misread and misconstrued the evidence on record or have committed any jurisdictional error or any material irregularity and illegality in arriving at such findings. In the nstant case, at very outset the learned counsel for the applicants failed to point out any misreading and non-reading of evidence or any misconceiving of fact or commission of any jurisdictional error by the learned Courts below.



8. It is matter of record that applicant No.1, namely, Ali Khan Detho in his evidence have produced certified true copy of Entries No. 58, 14 and 22, standing in Deh Form VII Ex: 54/C, showing that the suit land was purchased by late Faiz Muhammad from one Tillan Mal, while respondent No.2, namely, Kareem Bux in his evidence has produced attested copy of Gazette Notification, dated 29.10.1885 at Ex: 64/A, wherein the suit land has been shown in the name of forest department. The Mukhtiarcar (Revenue) Taluka Ghari Yassen, namely, Abdul Jabbar, who has been examined by the trial Court as court witness, has produced Land Registered of Survey Nos. 63,64,68,69,70,71 of Deh Nazar Detho, which is in the name of forest department and the said court witness has also confirmed that in register VII-B of 1955 only five entries bearing Nos. 19, 20, 21, 23 and 25 were verified by the then Deputy Collector, Larkana while the entries No. 19, 20, 21,23 and 25, on the basis of which the applicants claim their ownership over suit land, have not been verified by him, as such, the same have no legal sanctity; hence, the learned Courts below rightly held the latter entries, stands in favour of late Faiz Muhammad, as forged, manipulated and fictitious.

9. It may be relevant to observe here that the applicants claim their title over suit land by way of inheritance alleging that the same was purchased by their father/grandfather from one Tillan Mal in 1938-39 but no title document has been produced by the applicants in support of their claim. There is nothing on record to show as to how the said Tillan Mal acquired title to the suit land.

10. Learned counsel for the applicants has vehemently argued that since the respondent have produced photocopy of the Gazette Notification dated 29.10.1885 (Ex: 64/A) without seeking permission from the Court for the production of secondary evidence, no credibility can be attached on the basis thereof in respect of the title of suit land in favour of forest department. In this regard, suffice to say it that the photocopy of the said Gazette Notification duly



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authenticated and certified was produced in evidence which was rightly relied upon by the Courts below, the authenticity thereof has already been examined by the Honorable Supreme Court of Pakistan in its Order, dated 27.10.2008 passed in Civil petition No. 172-K of 2006, titled Muhammad Waris & others v. Chief Conservator of Forest Sindh & others.

11. In view of the above, as no case is made out on the ground of any material irregularity or exercise of jurisdiction not vested in the Courts or failure of exercise of jurisdiction vested in it and the impugned judgments of lower Courts below do not call for any interference or exercise of discretion on any point of law in this case of concurrent finding; hence. instant civil revision application, alongwith listed application, is dismissed, accordingly.

12. Above are the reasons of my short order dated 21.11.2016, whereby the instant civil revision application was dismissed.


22/11/2016
JUDGE