

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

Civil Revision Application No.S-13 of 2006

Applicant : **Shamsuddin s/o Ahmed Khan Lankan
Through Mr. Vinod Kumar G.Jessrani,
Advocate**

Respondent No.1 : **Nadir Hussain Bhand(since deceased) through
his L.Rs respondents No.01(a) to 01(l)
Through Mr. Habibullah G.Ghouri, Advocate**

Government of Sindh : **Through Mr.Abdul Waris Bhutto, Asstt.A.G**

Date of hearing: **07-05-2025**

Date of Judgment: **16-05-2025**

JUDGMENT

Jan Ali Junejo, J:- This Civil Revision Application under Section 115 of the Code of Civil Procedure is directed against the Judgment dated 20.12.2005 followed by Decree (hereinafter referred to as the "*Impugned Judgment and Decree*") passed by the learned Additional District Judge, Shahdadtal (hereinafter referred to as the "*Appellate Court*"), whereby he dismissed the Civil Appeal No.06 of 2005 filed by the Applicant/Appellant Shamsuddin against the Judgment and Decree dated 27.11.2004 and 02.12.2004 respectively, passed by the learned 3rd Senior Civil Judge, Larkana (hereinafter referred to as the "*Trial Court*"), whereby the Applicant's F.C. Suit No.30 of 2003 was dismissed.

2. The brief facts of the case are that the Plaintiff/Applicant Shamsuddin filed F.C. Suit No.30/2003 for Declaration and Permanent Injunction against the Defendants/Respondents, alleging therein that he had purchased the suit land bearing Survey Nos.548 and 549, measuring 31-20 acres, situated in Deh Jiand Lak, Taluka Miro Khan, from one Umer Hayat in the year 1985 through an oral statement recorded before the Mukhtiarkar, Miro Khan. However, the Deputy

District Officer (Revenue), Miro Khan, vide order dated 22.01.2003, had cancelled the said Entry No.72 in the revenue record, holding it to be bogus.

3. Learned counsel for the Applicant argued that the findings of the trial Court and the appellate Court are based on non-reading, misreading of the evidence, and by not considering the ownership documents of the Applicant. It was contended that the Applicant had purchased the suit land from Umer Hayat through an oral statement recorded before the Mukhtiarkar, and the possession was also delivered to the Applicant. The learned counsel further argued that the power of attorney allegedly executed by Umer Hayat in favor of Defendant No. 1 is bogus and fabricated, and the order passed by the Deputy District Officer (Revenue) cancelling Entry No. 72 is illegal and malafide. Lastly, the learned counsel prayed for allowing the instant Civil Revision Application.

4. On the other hand, the learned counsel for the Respondents and the learned Assistant Advocate General argued that the Applicant's claim is based on false and fabricated entry/document. They contended that the original owner, Umer Hayat, had never sold the suit land to the Applicant through an oral statement, nor had he handed over possession to the Applicant. The learned counsel further submitted that Umer Hayat, who is alive, had executed a registered power of attorney in favor of Defendant No. 1, Nadir Hussain, and the Deputy District Officer (Revenue) had rightly cancelled the bogus Entry No. 72 after a detailed inquiry. It was argued that the Applicant did not challenge the order of the Deputy District Officer (Revenue) in the revenue hierarchy, and hence the impugned judgments and decrees deserve to be maintained. Lastly, it was prayed for dismissal of the instant Civil Revision Application.

5. Heard arguments of learned counsel for the parties and minutely perused the material available on record.

6. On careful examination of the record and the arguments advanced by the learned counsel for the parties, this Court finds no infirmity or illegality in the impugned Judgments and Decree(s) passed by the Courts below. The review of the record indicates that the Applicant has not adequately demonstrated ownership and possession of the disputed land through credible evidence. The oral statement purportedly recorded before the Mukhtiarkar, along with Entry No.72 in the revenue record, was deemed fraudulent by the Deputy District Officer (Revenue) following a thorough investigation. The Applicant did not challenge the Order dated January 22, 2003, issued by the Deputy District Officer (Revenue), which cancelled Entry No.72, before higher revenue authorities under the Sindh Land Revenue Act, 1967, and the Sindh Revenue Jurisdiction Act, 1876. This failure to pursue available legal remedies renders the Applicant's suit invalid. While it is true that the Civil Court holds ultimate jurisdiction, it can only review orders deemed illegal or issued in bad faith by authorities operating under Special Laws that do not conform to those statutes. Conversely, orders that comply with statutory provisions are not subject to challenge in the Civil Court. This principle was upheld by the Supreme Court of Pakistan in the case of *Administrator, Thal Development through EACO Bhakkar and others v. Ali Muhammad* (2012 SCMR 730), which reaffirmed these legal boundaries by observing that:

“Another legal aspect of the case, which also materially affected the maintainability of the suit before the Civil Court in terms of section 9, C.P.C., but escaped the sight of the Court below is the availability of remedy of appeal against the impugned resumption order dated 27-4-1985 in the hierarchy of revenue laws in terms of section 161 of the Land Revenue Act 1967, which was admittedly not availed, but impliedly barred the jurisdiction of the Civil Court in such matters where the jurisdiction to adjudicate exclusively vested with the revenue Courts”.

7. It has also been established on record that the Applicant failed to substantiate his claim of possession over the Suit Land. He neither produced any land revenue receipts before the learned Trial Court nor filed an application for the inspection of the Suit Land to demonstrate his possession. Consequently, the Applicant's alleged possession over the Suit Land remains unproved on the record.

8. A perusal of the record further reveals that the power of attorney executed by Umer Hayat in favor of Defendant No. 1 was found to be genuine. The Applicant failed to substantiate any claim that it was forged or fabricated. In the case of ***Rasool Bukhsh and another v. Muhammad Ramzan (2007 SCMR 85)***, the Honourable Supreme Court of Pakistan held that:-

“It is a settled law that the registered document has sanctity attached to it and stronger evidence is required to cast aspersion on its genuineness as law laid down by this Court in Mirza Muhammad Sharif's case NLR 1993 Civil 148”.

9. The Applicant has failed to bring any material on record that would cast doubt on the authenticity of the registered power of attorney executed in favor of Defendant No.1 concerning the Suit Land. Furthermore, the registered instrument executed in the name of Defendant No.1 is not only binding upon the parties thereto but is also enforceable against third parties, including the Applicant. In the case of ***Abdul Aziz v. Abdul Hameed (Deceased) through L.Rs. (2022 SCMR 842)***, the Honourable Supreme Court of Pakistan held as follows:—

“We also note that registered document carries presumptions attached to it under Sections 35, 47 and 60 of the Registration Act, 1908 and under Article 90 of the Qanun-e-Shahadat Order, 1984 and the court will presume correctness of the registered document in accordance with the presumptions attached unless the same are disputed or rebutted. For this if any

authority is needed, reference may be made to "Muhammad Siddique (deceased) v. Mst. Noor Bibi (deceased)" (2020 SCMR 483), "Abdul Razaq v. Abdul Ghaffar" (2020 SCMR 202); "Anjuman-e-Khuddam-ul-Quran, Faisalabad v. Lt. Col (R) Najam Hameed" (PLD 2020 SC 390); "Muhammad Idrees v. Muhammad Pervaiz" (2010 SCMR 5); "Rasool Bukhsh and another v. Muhammad Ramzan" (2007 SCMR 85)".

10. The findings of both the Trial Court and the Appellate Court regarding the collusive nature of the earlier suit, F.C. Suit No. 30 of 2002, filed by the Applicant against his brothers, without impleading the necessary parties, namely Respondent No.1 and Umer Hayat, are well-founded and supported by the evidence on record. The Order passed by the Deputy District Officer (Revenue), cancelling the fraudulent Entry No.72, was rightly held to be lawful and in conformity with the relevant provisions of the Sindh Land Revenue Act, 1967. Accordingly, the concurrent findings of fact recorded by the Courts below do not warrant interference in revisional jurisdiction.

11. It is a well-established principle that a revisional court, while exercising jurisdiction under Section 115 of the C.P.C, generally does not interfere with concurrent findings of fact recorded by the two Courts below. This principle is based on the premise that an appellate court serves as the final authority for determining disputed questions of fact. However, this rule is not absolute. There are exceptional circumstances where intervention under Section 115 of the C.P.C. may be warranted, such as in cases of gross misreading or non-reading of evidence on record, or when the courts below have exercised their jurisdiction illegally or with material irregularity. In this regard, reliance may be placed on the dictum laid down by the Supreme Court of Pakistan in *Haji Wajdad v. Provincial Government Through Secretary Board of Revenue Government of Balochistan, Quetta and others* (2020 SCMR 2046), wherein the Honourable Apex Court has held that;

“---Scope---Revisional Court (High Court) while exercising its jurisdiction under S. 115 CPC as a rule was not to upset the concurrent finding of facts recorded by the two Courts below--- Said principal was essentially premised on the touchstone that the appeal Court was the last Court of deciding disputed questions of facts---However, the said principle was not absolute, and there may be circumstances warranting exception to the above rule, as provided under S.115 C.P.C. gross misreading or non-reading of evidence on the record; or when the courts below had acted in exercise of its jurisdiction illegally or with material irregularity”

12. It is a matter of record that the Applicant has not only failed to demonstrate gross misreading, non-reading of evidence, illegality, or material irregularity but has also been unable to establish any exceptional circumstances warranting intervention in the concurrent findings of fact recorded by the learned Courts below.

13. In the light of foregoing facts and reasons discussed above, this Court finds no merit in the present Civil Revision Application. The concurrent findings of fact recorded in the impugned judgments and decrees of the Trial Court and the Appellate Court are well-reasoned and firmly grounded in the evidence on record. Accordingly, the Civil Revision Application stands dismissed, and the judgments and decrees passed by the Courts below are hereby upheld.

JUDGE