IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Civil Revision Application No. S- 84 of 2019

(Abdul Rehman Vs. P.O Sindh and others).

Appellant	:	Abdul Rehman S/o Ameer Bux Mirani, *through* Mr. Abdul Rehman Bhutto, Advocate.
Respondents	:	Province of Sindh and others *through* Mr. Munawar Ali Abbasi, Assistant Advocate General, Sindh.
Date of Hearing	:	21.08.2025.
Date of Short Order/ Decision	:	21.08.2025.
Date of Reason	:	03.09.2025.

JUDGMENT

Ali Haider 'Ada'.J:- Through this Civil Revision, the applicant has challenged the decree and judgment dated 13.09.2019, passed by the learned District Judge, Kashmore at Kandhkot, in Civil Appeal No. 91 of 2019, whereby the decree and judgment passed in favour of the applicant by the learned Senior Civil Judge, Kashmore in F.C. Suit No. 76 of 2017, was set aside. Feeling aggrieved by the said appellate judgment, the applicant has preferred the present Civil Revision.

2. The brief facts and background of the case are that the applicant (plaintiff) filed a civil suit, wherein he specifically pleaded that 06-00 acres of land were allotted to him in the year 1988–1989 by the competent authority from Block No. 14-B, Deh Bindo Murad, Mithri, District Kashmore at Kandhkot. He claimed to have remained in peaceful possession of the said land since its allotment. However, in the year 2016, the revenue authorities, in collusion with the Irrigation Department, issued notices to the applicant directing him to vacate the said land, asserting that the land in question was government property. Subsequently, the official respondents issued a notice dated 23.02.2017 requiring the applicant to vacate the premises. Aggrieved by such action, the applicant instituted a civil suit against the officials of the Revenue Department and the Irrigation Department, seeking relief against the threatened dispossession. In response, the official defendants filed their written statement before the learned trial court, taking a specific plea that the applicant/plaintiff is an encroacher upon government land and, therefore, has

no lawful right or title in respect of the land in question. It was asserted that the said land belongs to the Irrigation Department and forms part of the Guddu Barrage project. The defendants further contended that the documents relied upon by the applicant/plaintiff are false, fabricated, and devoid of legal sanctity. It was argued that the notice for vacating the land was lawfully issued by the competent authority, as the land in question is required for a World Bank-funded project titled ***"Rehabilitation and Modernization of Guddu Barrage"***. Hence, action against encroachers is justified and necessary.

3. On the other hand, the Mukhtiarkar (Estate), Headquarter Kashmore at Kandhkot, submitted his comments, stating that the land in question was allotted to the applicant/plaintiff under the Prime Minister's Programme in the year 1988, and the entry to that effect was duly made in the Form K-II Register. It was also confirmed that the applicant/plaintiff had paid the installments as per the terms of allotment. The Deputy Commissioner, however, filed his para-wise comments wherein he categorically denied the claim of the applicant/plaintiff. He stated that there exists no Block No. 14-B in Deh Bindo Murad, Kashmore, as claimed by the applicant. It was contended that the land referred to by the applicant is in fact government land and that the applicant falsely claimed possession of a non-existent block. On this basis, it was argued that the applicant had approached the court with unclean hands and is not entitled to any equitable relief.

4. Thereafter, the learned trial court, out of the pleadings of the parties, framed the following issues for determination:

> 1. Whether the suit of plaintiff is not maintainable?
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> 2. Whether the plaintiff is owner of the suit land admeasuring 06-00 acres Deh Bendo Murad Taluka Kashmore on the basis of vide entry No.102 of Deh Form VII-B dated 31.08.1998?
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> 3. Whether the alleged notice No. ABDAR/247 dated 23.02.2017 issued by the defendant No.6 is illegal and unlawful being issued with malafide intention and ulterior motives?
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> 4. Whether the suit land belongs to the irrigation department being government land and plaintiff has encroached over the government land and illegally got the suit property leased in his name?
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> 5. Whether the plaintiff is entitled for the relief as claimed for?
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> 6. What should the decree be?

5. After framing the issues, the applicant/plaintiff led his evidence. The attorney of the applicant appeared as a witness and produced several

documents in support of his claim, including Entry from Form K-II Register, Entry from Form K-III Register, Allotment order, A memo of knowledge (Yad-dasht) for the past 10 years, Zakat receipts, Dhall receipts, and Pass Book, A letter dated 30.12.2000 purportedly issued by the Irrigation Department, Various applications, official correspondence, and the notice dated 23.02.2017 issued by the Irrigation Department. Additionally, the applicant examined two private witnesses, namely Muhammad Ameen and Bego alias Shah Baig, who supported the applicant's claim of long-standing possession over the land.

6. In compliance with a notice issued by the trial court, a Bank Officer was summoned to produce records related to the challan deposited in favour of the Revenue Department. The bank officer testified that the relevant records had been destroyed during the law and order situation that followed the martyrdom of Mohtarma Benazir Bhutto, due to arson and rioting. The trial court also recorded the evidence of the Assistant Executive Engineer, Irrigation Department, who categorically denied the authenticity of the letter dated 30.12.2000. He deposed that the letter was fabricated, stating that the outward register for the year 2000 had ended at entry No. 463, whereas the impugned letter bore outward No. 1245, which was impossible. A copy of the outward register was produced in his evidence to support this assertion. A government official from the office of the Mukhtiarkar (Estate), Headquarter Kashmore at Kandhkot, was also examined. He confirmed the entries in Form K-II and K-III in the name of the applicant/plaintiff. Another official from the Mukhtiarkar Revenue Office produced the Dasti Sorathal in compliance with the directions of the trial court. On the side of the defendants (Irrigation Department and Revenue Authorities), one Aijaz Ahmed, serving as Mukhtiarkar, was examined. He deposed that all original records were in the custody of the Mukhtiarkar Headquarters, Kashmore at Kandhkot. Additionally, police officials were examined, who deposed that the matter was purely civil in nature, and that the police had no concern with the dispute nor had any act of harassment occurred.

7. The Executive Engineer, Irrigation Department, also appeared and submitted a measurement report pertaining to the land in question. He specifically stated that the land was neither leased out nor allotted to any person. It was asserted that the applicant was relying on forged and fabricated documents, and that the property in question lies within the Left Bank area of the River Indus, forming part of the Guddu Barrage. It was further contended

that the applicant had previously filed a civil suit bearing No. 14 of 2009, which had been rejected under Order VII Rule 11 of the Code of Civil Procedure, on the ground that the plaintiff had concealed material facts from the court.

8. Thereafter, the learned trial court decreed the suit in favour of the applicant/plaintiff. Aggrieved by the said judgment and decree, the official defendants (Government functionaries) preferred a civil appeal, wherein they succeeded. The learned appellate court, vide judgment and decree dated 13.09.2019 passed in Civil Appeal No. 91 of 2019, set aside the judgment and decree of the trial court. Feeling aggrieved by the said appellate judgment, the applicant/plaintiff has filed the instant Civil Revision.

9. Learned counsel for the applicant contended that the entire documentary record supports the applicant's claim, including the allotment order and entries in Form K-II and Form K-III, which establish his lawful entitlement and possession over the land in question. He submitted that the learned appellate court failed to appreciate these crucial documents, which were duly considered by the trial court while decreeing the suit. It was argued that the claim of the Irrigation Department is without lawful authority, and the impugned judgment and decree of the appellate court is liable to be set aside, with the decree of the trial court restored.

10. Conversely, the learned Assistant Advocate General supported the findings of the appellate court. He submitted that the trial court had decreed the suit without properly appreciating the factual matrix of the case and had erroneously relied upon documents that lacked authenticity and legal foundation. He further argued that the applicant had already been non-suited in earlier proceedings, and the present case is barred by the principle of res judicata. Therefore, the learned appellate court rightly set aside the decree of the trial court, and no interference is warranted in the impugned judgment.

11. Heard the learned counsel for the respective parties and perused the material available on record.

12. The applicant's claim is primarily based on an allotment order dated 31.08.1998, which specifically refers to the land grant policy issued by the Land Utilization Department, Government of Sindh. Although the applicant asserts that he was granted the land during the year 1988/1989, the formal allotment order was subsequently issued in 1998. The said allotment order

cites Notification No. SB-III/1-403/P/82/1997, which forms the basis of the land grant and sets out the terms and conditions governing the allotment. Upon scrutiny of the aforementioned notification, it appears that the Government of Sindh issued it in exercise of powers conferred under Section 10(2) of the Colonization and Disposal of Government Lands Act, 2012, whereby it is empowered to frame and notify conditions for the allotment or disposal of Government land. The relevant statutory provision, Section 10(2) of the said Act reads as follows for ready reference:

> ***10. (1) The [Board of Revenue subject to the general approval of the Government] may grant land in a colony to any person on such conditions as it thinks fit.***
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> ***(2) The [Provincial Government] may issue a statement or statements of the conditions on which it is willing to grant land in a colony to tenants.***
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13. In view of the powers conferred under Section 10(2) of the Colonization and Disposal of Government Lands Act, 2012, the Government of Sindh is duly authorized to issue terms and conditions governing the allotment, lease, or disposal of Government land. The allotment order dated 31.08.1998, upon which the applicant's claim is based, explicitly refers to Notification No. SB-III/1-403/P/82/1997, under which the Statement of Conditions was issued by the Land Utilization Department. Accordingly, the case of the applicant have to be examined in light of the Statement of Conditions mentioned in the said notification, as these conditions form the legal framework of the allotment. The allotment order incorporates and makes binding reference to the conditions laid out in the said notification.

14. As per the Statement of Conditions, the land allotted under the ***Darya Khurdi Right*** is subject to certain limitations and requirements, which are clearly defined under Condition Nos. 2(b), 2(c), and 2(h). For ready reference, the relevant clauses are reproduced below:

> ***(b)"allottee" means the persons to whom land is granted under these conditions and includes the term grantee;***
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> ***(c)" darya Khurdi right" means the right to hold Katcha State land in lieu of Kabuli land eroded or lost in river action.***

(h) "Land" means the Katcha state land located in between the flood protective bunds of river Indus known as reverine Katcha area.

15. Furthermore, if the procedure prescribed in the Statement of Conditions is carefully examined, it becomes evident that a specific mechanism was laid down for regulating the grant and enjoyment of *Darya Khurdi Rights*. In this regard, Condition No. 05 of the Statement of Conditions outlines the procedure and entitlement criteria for such rights, which are applicable to land granted under the policy framework referenced in the applicant's allotment order. For ready reference, the relevant Condition No. 05 is reproduced below:

5. Darya khurdi rights. -

(a) Darya khurdi right holder shall be grated land by way of compensation from such acception of land as may be caused by river action in the same deh, proportionate to the loss of kabuli land but in no case the land granted to him shall exceed thirty two acres.

****[Provided that subject to availability, a claim of land exceeding thirty two acres and upto two hundred acres in the same deh of which Qabuli land was lost, may be allowed by the Board o Revenue with the approval of Government.***

(b) The land so granted shall vest in the Darya khurdi right holder without payment of malkono and the land lost in lieu of which land is granted shall vest in Government. Darya khurdi claim in respect of land in other Dehs shall not be entertained.

(c) All land granted in satisfaction of darva Khunii rights shall be at par with the proprietary rights and so recorded in the Record of Rights.

16. Upon careful perusal of the Statement of Conditions issued under Notification No. SB-III/1-403/P/82/1997, it becomes evident that the applicant's case does not fall under any category wherein the land was granted either as a form of compensation or as a grant conferring proprietary rights. There is no material on record to suggest that the grant in favour of the applicant was intended to vest ownership or proprietary title in the land.

17. Furthermore, Condition No. 12 of the Statement of Conditions comprehensively lays down the procedure for grant of land, including the manner in which applications are to be processed, approvals obtained, and entries made in the official record. This condition forms the cornerstone of the land grant mechanism under the policy framework. For the sake of clarity and reference, the relevant Condition No. 12 is reproduced below:

12. Procedure of Grant. -

(i) All grants shall be made through open the katcheries.

(ii) A schedule of land available for grant, shall cause to be prepared by the Collector, as may by the Government, in lots each containing land not exceeding [twenty five acres]. Every page of the schedule shall be authenticated by the Collector under his signature and a copy thereof shall, amongst others, be forwarded to the Board of Revenue, Commissioners and the Deputy Commissioners.

(iii) The schedule shall be widely published atleast ten days before the scheduled date of Katchery.

(iv) An application for grant of land shall be made in form appended to these conditions, in duplicate, on or before the date of Katchery.

(v) On receipt of the application, it shall be entered in a register to be prescribed by the Board of Revenue, and its duplicate copy shall be returned to the applicant with an acknowledgement of receipt, indicating the serial number as entered in the register.

(vi) The Collector shall after inspecting the original revenue record personally and making such enquiries an deemed necessary, decide the eligibility of the applicant for the grant of land under these conditions.

(vii) If the applicant is found eligible, a certificate of eligibility shall be recorded on the application and in the remarks column of the register.

(viii) If the applicant is found ineligible the reasons for the same shall be recorded on the application in the remarks column of the said register.

(ix) The grant shall be made in open Katchery with shall be held after wide publicity in the dehs where the land available for allotment is situated.

(x) The Collector shall before holding Kalchery satisfy himself that the proper publicity has been made and shall record a certificate to that effect in the register of Kachery.

(xi) Katchery shall be held in the deh where the available land is to be disposed of.

(xii) The grant shall be made after taking into consideration objections, if any, raised in respect of the applicants at the time of holding of Katchery.

(xiii) The applications received on the day of Katchery shall be entertained and dispose of in the katchery, after observing the prescribed formalities.

(xiv) No grant shall be made in the name of more than one person.

(xv) If the applicant, his father, husband, wife, or child has previously received any gram of land under these conditions or

under any other conditions, he/she shall disclosed the fact in writing to the Collector alongwith the application or in any case the prior to the date of Katchery.

(xvi) The grantee, his father, brother(s), son(s), or her husband (in case the grantee is a women); that is adult member of his/her family can each have only one lot not exceeding [twenty five acres] under these conditions.

(xvii) The grant shall be issued under these conditions and the grantee shall execute kabuliat/ agreements containing inter alia, the terms and conditions of the grant and the date and the place of Katchery.

18. Coming to the pivotal issue in the case, a thorough perusal of the Statement of Conditions issued under the relevant notification reveals that the applicant has completely failed to establish his entitlement to the land in accordance with the prescribed procedure. The applicant has not produced any legally admissible evidence to demonstrate that his alleged allotment order, or supporting documents such as the Dhall receipts and Zakat receipts, were issued or maintained in compliance with the official land grant mechanism. It is further noted that the allotment order itself refers to conditions, yet the applicant did not lead any cogent evidence to show that such conditions were ever fulfilled, nor did he produce any witness or departmental confirmation to prove compliance with the support of the document. This amounts to a serious flaw and lacuna in the evidentiary record presented by the plaintiff. Mere production of unauthenticated or one-sided documents cannot substitute for the legally required procedure for the grant of Government land. In this regard, it is pertinent to refer to Article 117 of the Qanun-e-Shahadat Order, 1984, which clearly lays down the rule regarding burden of proof. For ready reference, Article 117 reads as follows:-

117. Burden of proof.– (1) Whoever desires any Court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts, must prove that those facts exist.

(2) When a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person.

Illustrations

(a) A desired a Court to give Judgment that B shall be punished for a crime which A says B has committed. A must prove that B has committed the crime.

(b) A desires a Court to give judgment that he is entitled to certain land in the possession of B by reason of facts which he asserts, and which B denies to be true.

A must prove the existence of those facts.

19. In the present case, the burden squarely lay upon the applicant/plaintiff to prove the legality and validity of his alleged allotment, and to establish that the same was made in accordance with the procedure prescribed in the Statement of Conditions. However, he has failed to discharge this burden.

20. In order to scrutinize the credibility of the documents relied upon by the applicant; it is pertinent to examine the Form K-II and Form K-III, which were heavily relied upon by the learned trial Court as evidence of allotment. These forms are part of the record of Katcha land, and reflect entries concerning landholding or possession. However, they do not by themselves confer proprietary title or ownership. In this context reliance is placed upon the case of ***Province of Sindh vs Noor Muhammad and 12 others (2016 YLR 773).***

21. Upon careful consideration of the official record produced during the proceedings, it has come to light that Block Nos. 14-A and 14-B, which are purportedly mentioned in the said forms, do not exist at Deh Bindo Murad, Taluka Kashmore. This fact alone casts serious doubt on the authenticity and reliability of the entries recorded in Form K-II and K-III in the applicant's name. Furthermore, the entries in these forms were challenged by the official respondents as having been procured fraudulently or without lawful authority. In such circumstances, mere mention of the applicant's name in entries particularly when the entire block is fictitious cannot be taken as conclusive proof of legal allotment or conferment of ownership rights. The learned trial Court failed to appreciate that entries under a cloud of fraud or made without jurisdiction do not create title, especially when the foundational criteria for allotment were not fulfilled under the governing policy and Statement of Conditions. Thus, the reliance placed by the trial Court on such documents is legally untenable, and the findings based thereon are liable to be set aside.

22. It is a matter of record that the applicant/plaintiff, along with others, previously instituted F.C. Suit No. 14 of 2009 before the Senior Civil Judge, Kashmore (the same trial Court), wherein he took an identical plea claiming ownership or allotment of land said to be situated in Block No. 14-B, Deh Bindo Murad, Kashmore. However, after examining the material placed on record, the learned trial Court in the earlier proceedings categorically held that no such Block 14-B exists in the revenue record, and as a result, the plaint was rejected under Order VII Rule 11 CPC vide order dated 05.01.2010, for failure

to disclose a cause of action. Notably, after a lapse of approximately seven years, the applicant again approached the trial Court by filing the present suit, but willfully failed to disclose the earlier proceedings and the adverse findings recorded therein. This material concealment clearly reflects the ulterior motive of the applicant/plaintiff and his lack of bona fide intent in invoking the jurisdiction of the Court. Such conduct amounts to playing fraud upon the Court, and is a direct abuse of the process of law. The applicant was legally bound to disclose the existence of the earlier proceedings, particularly when they involved the same subject matter, and had already resulted in a judicial determination on the non-existence of Block No. 14-B. The concealment of this fact amounts to misrepresentation, and is sufficient in itself to disentitle the plaintiff from any equitable relief. Furthermore, the principle of res judicata, as enshrined under Section 11 of the Code of Civil Procedure, squarely applies to the present case. The matter in issue had already been directly and substantially in issue in the former suit, and had been adjudicated upon by a Court of competent jurisdiction. The subsequent filing of the present suit without disclosure of the earlier proceedings is a mala fide attempt to re-litigate a concluded issue. In such circumstances, where the applicant has approached the court with unclean hands and with the intent to overreach a prior judicial determination, his case deserves to be dismissed, and no indulgence ought to be shown by the Court. Such practice must be dealt with an iron hand to preserve the sanctity of judicial proceedings and to prevent abuse of the legal process. The doctrine of res judicata is not merely a procedural technicality, but a rule founded on public policy and judicial wisdom. The far-sightedness and prudence ingrained in this doctrine serve to protect litigants and the Courts from the perils of never-ending litigation. It ensures the finality of adjudication, thereby safeguarding parties from the rigors of protracted and multiple proceedings. Once a cause of action has been finally adjudicated on merits by a Court of competent jurisdiction, it must not be re-litigated by introducing cosmetic changes to the pleadings. The principle embodies the maxim ***"interest reipublicae ut sit finis litium"*** — it is in the interest of the State that there be an end to litigation. Therefore, the present attempt by the applicant to reopen an issue already decided in F.C. Suit No. 14 of 2009, without disclosure of that proceeding, is not only barred by Section 11 of the CPC, but also an abuse of the process of law. Support for this settled legal proposition is drawn from the authoritative judgment of the Honourable Supreme Court of Pakistan in the case of ***Habib-ur-Rehman v. Abdul Karim (deceased) through L.Rs and others*** *reported as* ***2025 SCMR 1262.***

23. For the foregoing reasons, discussion, and upon perusal of the relevant laws and record, it clearly emerges that the learned trial court not only misread the evidence but also exceeded its jurisdictional scope in granting relief to the applicant/plaintiff. The applicant/plaintiff has utterly failed to establish his claim, either through oral testimony or documentary evidence, and could not substantiate the legality of his alleged allotment or title over the disputed land. In contrast, the findings of the learned appellate court are based on proper appreciation of the record. The appellate court has rightly set aside the impugned judgment and decree of the trial court, and its decision does not warrant any interference by this Revisional Court. Accordingly, the instant Civil Revision is misconceived and devoid of merit. As per the short order dated 21.08.2025, the Civil Revision Application was dismissed with no order as to costs. These are the detailed reasons in support of the short order of even date.

JUDGE

S.Ashfaq/-