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

R.A. No.233 of 2018

Applicants:	Province of Sindh through Secretary to Government of Sindh, Board of Revenue Sindh, Hyderabad, and others Through Muhammad Yousuf Rahpoto, Asstt. A.G.
Respondents:	Allah Dino Khuwaja and others Through M/s Parkash Kumar and Ravi Kumar, Advocates
Date of hearing:	24.10.2025.
Date of Judgment:	20.11.2025.

JUDGMENT

MUHAMMAD HASAN (AKBER) J.: Through the instant Revision Application under section 115 of the Civil Procedure Code 1908 [CPC.] the applicants have assailed the Judgment dated 20.12.2017, passed by learned Senior Civil Judge-I, Tando Muhammad Khan in F.C.Suit No.59/2013 for Declaration of Easement Rights and Permanent Injunction, whereby the Suit was decreed; so also the Judgment dated 25.09.2018, passed in Civil Appeal No.02/2018, by the learned District Judge, Tando Muhammad Khan which concurrently upheld the Judgment and Decree.

2. Heard Mr. Muhammad Yousuf Rahpoto, learned Assistant Advocate General for the Applicant/ State and M/s Parkash Kumar and Ravi Kumar, learned Advocates for Respondent No.1, and scrutinised the entire evidence with their eminent assistance.

3. Succinct facts of the case are that on 13.09.2013, the Respondent No.1/ Plaintiff filed Suit No.59 of 2013 for Declaration of his Easementary Rights and Permanent Injunction against Defendant No.1 to 4 (the Applicants herein) and Defendants 5 and 6 (the Respondents 2 and 3 herein). The Plaintiff's case was that he owned and possessed Survey No.395 measuring 8-22 acres situated in Deh Patar Taluka and District Tando Muhammad Khan; while Survey Nos.395, 400 & 401 of the same Deh were owned by

Respondents 2 and 3. Respondents 2 and 3 had constructed a path/ road for the approach of all three survey numbers to Tando Muhammad Khan to Hyderabad road, which path/ road was in use by all three survey numbers since last more than 60 years. Survey No.400 & 401 were acquired by the Government, over which offices, colony, mosque, park and other buildings were constructed and S.No.395 was purchased by Respondent No.1. The Highway Department metalled the path/ road. The applicant No.2 had threatened the Respondent No.1 and his manager, requiring them to stop using the metal road.

4. After service of notices, only Applicant No.3 filed written statement, while the remaining Defendants were declared *ex-parte*. In the written statement, it was averred that the buildings of offices and colony pertained to the Building Department, while the road was constructed by the Highway Department about 25 years back. In the main paragraph 4 of the said written statement, the use of road/path for more than 60 years, as pleaded by the Plaintiff, was not denied.

5. The injunction application filed by the Plaintiff was rejected in the first instance, which was challenged in Miscellaneous Appeal, wherein an Inspection by the Commissioner was also ordered by the Court to be conducted. Based upon pleadings, the following six issues were framed by the learned trial court:

1. Whether the suit is not maintainable in law?
2. Whether plaintiff has no cause of action to file the suit?
3. Whether the plaintiff uses the road leading from Hyderabad to Tando Muhammad Khan towards S.No.395 since 60 years?
4. Whether the plaintiff has no other route/road to reach survey No. 395 except road between S.No: 400 and 401?
5. Whether plaintiff is entitled for relief claimed?
6. What the judgement and decree be?

6. During trial, the plaintiff examined Tapedar Tando Muhammad Khan (**PW-1**) who produced Authority Letter as Ex.40/A, V.F VII-B Entry No.21 dated 16.02.1960 as Ex.40/B, V.F VII-B Entry No.33 dated 30.07.2005 as

Ex.40/C, V.F VII Entry No.50 & 51 Deh Pattar dated 31.12.1989 as Ex.40/D, V.F. VII-B Entry No. 002 Deh Pattar dated 11.11.2010 as Ex.40/E and V.F. VII-B Entry No. 53 Deh Pattar dated 25.07.2012 as Ex.40/F. The Clerk of Municipal Committee Tando Muhammad Khan (**PW-2**) who produced Authority Letter as Ex.45/A, Report of CMO as 45/B and Copy of FIR No. 45 of 2008 as Ex 45/C. The attorney of Plaintiff, Misri Khaskheli (**PW-3**) produced Power of attorney as Ex.54, Attested Photostat copy of Entry No. 21 Deh Form VII dated 26.06.1959 as Ex.55, Attested Photostat copy of Entry No. 33 Deh Form VII-B dated 30.07.2005 as Ex.56/i, 56/ii , Attested Photostat copy of Entry No. 53 Deh Form VII-B dated 25.07.2012 as Ex.57/i, 57/ii, Attested Photostat copy of Entry No. 002 Deh Form VII-B dated 11.11.2010 as Ex.58/i, 58/ii, Attested Photostat copy of Entry No.50 Deh Form VII-B dated 31.12.1989 as Ex.59, Notice of Commissioner dated 26.12.2013 as Ex.60, Certified copy of Report of Commissioner as well as sketch submitted by him with the Report dated 04.01.2014 as Ex.61/i, 61/ii, 61/iii, Certified Copy of order passed by Honorable District Judge in CMA No 03 of 2013 dated 18.01.2014 as Ex.62, Original Letter No. TMA/TMK/EN 1387 of 2005 dated 12.04.2005 as Ex.70, Original Approved plan of Survey No. 395 as Ex.71 and the Closing statement dated 07.04.2017 as Ex.72. The Defendant No.3 examined the following four witnesses, Mukhtiarkar (Revenue) Tando Muhammad Khan (**DW-1**) who produced Original Record of entries No.04 (dated 01.04.1959), 21 (dated 16.02.1960), 50-51 (dated 31.12.1989), 002 (dated 11.11.2010), 51 (dated 25.07.2012) and Photostat of Deh Map as Ex.102/A to 102/E. The Assistant Commissioner Tando Muhammad Khan (**DW-2**) and Assistant Engineer Highway Division Tando Muhammad Khan (**DW-03**) who produced Authority Letter as Ex.104/A. The Executive Engineer Buildings Tando Muhammad Khan (**DW-04**) who produced Whole Map of buildings, plan of all offices of District Government complex/B&R Colony situated on Survey No. 400 & 401 Deh Pattar, Taluka Tando Muhammad Khan as Ex.105/A.

7. Upon conclusion of trial, the learned trial Court decreed the Suit vide Judgment dated 20.12.2017 and Decree dated 23.12.2017, whereby Issues 1 and 2 were decided in Negative; while Issues 3, 4 and 5 were decided in Affirmative. The present Applicants assailed the said Judgment and Decree in

Civil Appeal 02 of 2018, wherein vide Judgment dated 25.09.2018, the learned appellate Court concurrently upheld the Judgment of the learned trial Court, which has been assailed in this Revision.

8. Looking at the scheme of law on the subject Section 15 of the Easements Act, 1882 provides that:

> "15. Acquisition by prescription and where a right of way or any other easement has been peaceably and openly enjoyed by any person claiming title thereto, as an easement, and as of right, without interruption, and for twenty years.
>
> The right to such access and use of light or air, support or other easement shall be absolute.
>
> Illustrations,--(a) A suit is brought in 1883 for obstructing a right-of-way. The defendant admits the obstruction, but denies the right-of-way. The plaintiff proves that the right was peaceably and openly enjoyed by him, claiming title thereto as an easement and as of right, without interruption, from Ist January, 1862 to Ist January, 1882. The plaintiff is entitled to judgment.
>
> (b)
>
> (c) In a like suit the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that the plaintiff on one occasion during the twenty years had admitted that the user was not of right and asked his leave to enjoy the right. The suit shall be dismissed, for the right-of-way has not been enjoyed "as of right" for twenty years".

9. Secondly, Section 26 of the Limitation Act 1908 provides that:

> "26. Acquisition of right to easements.---(1) Where the access and use of light or air to and for any building have been peaceably enjoyed therewith as an easement, and as of right, ' without interruption, and for twenty years,
>
> And where any way or watercourse, or the use of any water, or any other easement (whether affirmative or negative) has been peaceably and openly enjoyed by any person claiming title thereto as an easement and as of right without interruption, and for twenty years,
>
> The right to such access and use of light or air, way watercourse, use of water, or other easement shall be absolute and indefeasible.
>
> Each of the said periods of twenty years shall be taken to be a period ending within two years next before the institution of the suit wherein the claim to which such period relates is contested.
>
> (2) Where the property over which a right is claimed under sub-section (1) belongs to the government, that subsection shall be read as if for the words "twenty years" the words "sixty years" were substituted".

10. Thirdly, the term "**easement**", as defined in Section 2(5) of the Limitation Act, 1908, reads as follows:

> "(5) "**Easement**" includes a right not arising from contract, by which one person is entitled to remove and appropriate for his own profit any part of the soil belonging to another or anything growing, or attached to or subsisting upon, the land of another".

11. Fourthly, the guidelines enunciated by the Honourable Supreme Court of Pakistan, in the case of ***'Abdul Khaliq Alias Mithoo v. Moulvi Sher Jan and others'*** (2007 SCMR 901), provide the following four essential ingredients for acquisition of the right of easement by way of prescription:

> "The following conditions must be fulfilled for acquisition of a right of easement by prescription:
>
> (i) The right claimed must not be uncertain.
> (ii) The right claimed must have been enjoyed.
> (iii) It must have been enjoyed independently of any agreement with the owner or occupier of the land over which the right is claimed.
> (iv) It must have been enjoyed (a) peaceably, (b) 'openly, (c) as of right, (d) as an easement, (e) without interruption, (f) for twenty years or sixty years, if the right is claimed against Government.
> Out of the last six sub-conditions, (b) and (c) are not necessary in the case of easement of light and air or support. With this exception, all the conditions and sub-conditions must be fulfilled before a right of easement is acquired."

12. In the case of ***'Abdul Ghaffar alias Sona MIA V. Abdus Satar and another' (***PLD 1959 Dacca 491), the term "**as of right**" appearing in section 26 of the Limitation Act, 1908 has been defined in the following terms:

> "word "**as of right**" in section 26 of the Limitation Act, 1908 do not mean "rightfully" or an enjoyment without trespass and under a strict legal right but it refers to enjoyment by a person under a claim or an assertion of right.
>
> The acquisition of right may commence with an act which may be a pure act of trespass but the enjoyment though it may continue to be a trespass, may, nevertheless,- be, "as of right" so as to ripen into a prescriptive title."

13. It was further observed in the same Judgment that:

> "the basis of the right of easement by prescription is user of another man's land without any right till the user is ripened into a right by prescription. It is in the nature of an adverse possession though it does not partake of the character of adverse possession. In one case, the easement originates from a legal right, namely, grant, and in another case the right of easement accrues from user of right, which means an adverse exercise of right as against the servient owner, therefore, it was held that if the plaintiff leads evidence to show that he has used the stair-case on the basis of grant, he cannot rely on that evidence to establish his right of easement by prescription on the basis of the user of the stair-case because of the different animus. User on the basis of

> grant is not user to be ascribed in order to prove acquisition of the right of easement by prescription. If the enjoyment claimed is consistent with two reasonable inferences, the enjoyment as of right is not established."

14. In the case of ***'Safar Ali V. Abul Hashim and another'*** (PLD 1963 Dacca 201), it was held that mere use for innumerable years does not confer a prescriptive right, unless the conditions for acquisition of such right by prescription are fulfilled.

15. In the case of ***'Ghulam Hussain V. Government of Sindh through Secretary Local Government at Sindh Secretariat Karachi and 4 others***' (2004 MLD 1936), based upon an Inspection Report of the Commissioner appointed by the Court, it was held that:

> "Easement right had been created in favour of the general public to use roads and streets constructed by local bodies, societies etc., for the general convenience of the inhabitants of the city, and no one had authority to take away such right of enjoyment and to deprive the general public permanently from convenience except in accordance with law…Authorities were expected to act in the interest of the general public by providing amenities as light, education, health and road facilities, and not to take away such rights….Right of way and right to use roads and streets, being a right in *rem*, was available against the whole world, and it was attached with lands and could be described as a right against land itself, irrespective of the person to whom the land belonged…High Court directed Defence Housing Authority to remove the structure which they had raised on the road….Petition was allowed accordingly."

16. In the case of ***'Abdullah and another v. Ahmad Khan and 10 others'*** (1988 CLC 1301), it was held that:

> "The perusal of the cases noted above would show that the Courts in the Sub-Continent have consistently held that a person in the immediate neighbourhood entitled to use a local public thoroughfare has a special cause of action irrespective of the fact that he has proved special damage or not. The principle is that a person of immediate community or section of the public who is deprived of the amenity provided for that particular section may be deemed to have suffered loss without proof of such loss. The inhabitants of the vicinity or thoroughfare or residents of the village are entitled to seek removal of the obstruction without proving special damage."

17. In the case of ***'Abdullah Jan and others v. Zabardast Khan and others***' (PLD 2012 Peshawar 63), it was held that:

18. Section 26 of the Limitation Act, 1908 also came under consideration in the case of ***'Shah Alam and another V. Hav.***

Muhammad Nawaz Khan and 5 others (PLD 1981 SC (AJ&K) 124) wherein the right of way of the user was stopped by the original/servient owner and it was held that such stoppage by the original owner does not affect right already acquired by prescription unless it is established that it was intentionally abandoned.

19. In the Indian jurisdiction on the same subject, in the case of ***'State of U.P. v. Ata Muhammad'*** (AIR 1980 SC 1785), it was held that:

> "When a street is vested in a Municipal Council, such vesting does not transfer to the Municipal Authority the rights of the owner in the site or the soil over which the street exists. It does not own the soil from the centre of the earth usque ad ceelurn, but it has the exclusive right to manage and control the surface of the soil and so much of the soil below and of the space above, the surface as is necessary to enable it to adequately maintain the street as a street. It has also a certain property in the soil of the street which would enable it as owner to bring a necessary action against trespassers."

20. In the case of ***'Ranjit Singh and others v. Ram Nath Singh and others***' (AIR 1976 Allahabad 417), the Allahabad High Court recognised the right of access to the pathway at all points where the house adjoining the pathway belongs to the owners of the house and that they could sue for removal of the obstruction or interruption of the right.

21. The easement right of way was discussed in the case reported at AIR 1926 Patna 460 in the following terms:

> "In order to establish a right of way it must be proved that the claimant has enjoyed it for the full period of twenty years and that he has done so as of right; but if it should be the case of the opposite party that the enjoyment was by violence or by stealth or by leave asked from time to time, it is for him to allege and establish that case. But where no such case is made by him the court ought not to allow him to argue such a case."

22. In ***'Ram Sarup V. Abdul Haq'*** (AIR 1931 Lahore 395) it was held that the question whether a particular fact has been proved when evidence for and against has been properly admitted is necessarily a pure question of fact but the proper legal effect of a proved fact is essentially a question of law. The acquisition of right of way by prescription is a question of fact, but when the petitioners established the same through unrebutted or admitted evidence, it became a question of law, and despite concurrent findings of fact which is found to be not based upon proper appreciation of evidence or based on misreading and non-reading of evidence, and cannot

be declared immune from interference in revisional jurisdiction. Regarding the use of some other servient owner and for acquisition of prescriptive right it was held that the use of such right must be openly and peaceably available which means that when the plaintiff who claims to be the dominant owner, has neither been obliged to resort to physical force himself at any time to exercise his right within twenty years expiring within two years of the suit, nor had he been prevented by the use of physical force by the defendant in his enjoyment of such right. The person who claims a right over the property of another must not have deprived him of that right by the use of force or secretly. The word **'Peaceably"** qualifies the word enjoyed. A mere denial by the defendant of the plaintiff's alleged right in 1916 and his unsuccessful attempt to have this right challenged in courts of law does not affect the plaintiff's acquisition of easement.

> "We are of the view that the easement right has been created in favour of the General Public to use roads and streets constructed by the local bodies, societies, etc., for the general convenience of the inhabitants of the city and no one has authority to take away such right of enjoyment and to deprive the general public from convenience permanently except in accordance with law. The authorities are expected to act in the interest of General Public by providing amenities as light, education, health and road facilities and not to take away such rights. The right of way and right to use road, street is a right in rem available against the whole world and it is attached with lands and can be described as a right against land itself irrespective of the person to whom the land belongs."

23. In the present case, the evidence shows that the Plaintiff duly established that the original owner of the Suit land was Malika Sultana, from whom Dharyano Mal had purchased the same, and from whom Allah Dino Khawaja/ Plaintiff purchased it. Mallika Sultana inherited the suit land from her father. Malika Sultana also owns adjacent survey Nos.404 & 401, from which the disputed path is running, and comes to the suit survey number. It was also established that many government offices of revenue, police and other departments, as well as public park, Masjid, official residences and B&R colony are situated in the said survey Nos. 404 & 401. That the disputed path starts from the main Hyderabad-Badin Road and by-crossing survey Nos.400 & 401, comes to the suit survey No.395. Such path is existing since about 62 years. Initially, it was a katcha path and in the year 2001-2002 it became a metallic road. Mallika Sultana remained using such path, whereafter saith Dharyano remained using it, and thereafter the Plaintiff are using the same. The haris of the plaintiff, as well as tractors and trolleys pass through the

same path for decades. The plaintiff was never restrained from using such a path prior to the cause of action of the subject suit. The evidence of the plaintiff remained completely unshattered during cross-examination. The Commissioner appointed by the learned Appellate Court, after inspecting the Site, reported that:

> "Both sides of survey number 395 were inspected. In its left side there is no approaching road/path but there are two water courses, path of Pandhi wah/ drain and turns to left from the ends of survey number 395 and 400. The distance from survey number 395 to this road will be approximately 50 to 60 feet, but there is no bridge over there (water courses are shown in red colour, drain in yellow colour and the metal road in green colour in attached sketch). These water causes and path of Pandhi wah/ drain are not visible after some distance towards the Tando Muhammad Khan-Hyderabad Road, due to the presence of several Kacha houses of unknown persons. On the right side of survey number 395, there is no approaching road/path from the adjoining lands which belongs to private persons."

24. During cross-examination of the Defendant witnesses DW-1 Muhammad Ishaque, the Mukhtiarkar (Revenue) Taluka Tando Muhammad Khan, he admitted that:

> "It is correct to suggest that the entry No.04 having been produced by me at exhibit 102/A is relating to survey No.391, 396, 398 and 399 of deh Patar which survey numbers are neither mentioned in the plaint nor in the list... It is correct to suggest that the said Entry No.04 dated 01.04.1959 is relating to Allah Dino son of Haji Khawaja who is other than plaintiff as he is son of Aziz Ali Khawaja. …. It is correct to suggest that the property situated in survey No.395 is Kabuli land since year 1960. It is correct to suggest that as per our record the position of Survey No.395 also remained with the owners…. I was also required to produce relevant entries in the record of rights in respect of suit property and other relevant document pertaining to suit area…... It is correct to suggest that I have not produced the record related to payment of land revenue and respect of suit survey numbers. It is correct to suggest that I have produced the photocopy of map at exhibit 102/F which is part of Deh map. It is not complete one…… It is correct to suggest that I have not brought complete Deh map of Deh Patar. It is correct to suggest that the photocopy of Deh map so produced by me at exhibit 102/F, is neither signed by any officer nor stamped nor tested nor containing any stamp or seal of survey department. It is correct to suggest that Mukhtiarkar (Revenue) is not custodian of Deh map. …. It is correct to suggest that the word Deh Patar are mentioned on the top of copy of exhibit 102/F, which are not originally written on the said place and I have written said words. It is correct to suggest that survey numbers of each and every Deh is different from other Dehs. It is correct to suggest that the words are not mentioned in the surrounding of survey numbers 395, 396, 398, 399, 404 & 401."

25. DW-2, Anwar Ali the Assistant Commissioner posted at Tando MUHAMMAD Khan, in his cross-examination, admitted that:

> "It is correct to suggest that a public park in the name of Benazir public park is located inside compound wall of District Secretariat near DC house. It is correct to suggest that a big Masjid is located near the side public park. It is correct to suggest that a Pakka Road exists between public park and Masjid. Further says the said road is from the main gate of compound wall situated on the main Hyderabad-Badin Road to the offices and residences…. It is correct to suggest that survey No.395 classy number 400. Since I am not seen the disputed land as such, I cannot say that survey No.395 and 400 are adjoining."

26. The next witness for the Defendant, DW-3, Mir Yaar Muhamad, the attorney for the Executive Engineer Highway Division, admitted in his evidence that:

> "It is correct to suggest that the situation of compound wall, government office, Masjid and Park is not stated in the written statement. It is correct to suggest that in reply of para 3 of the plaint it is stated in the written statement that the roads passing through the colony were constructed nearly 25 years ago by the then Executive Engineer Highway Division….. It is correct to suggest that I have not produced any map or site plan to show that there is any other road to survey No.395 from main Hyderabad-Badin Road except this disputed road. It is correct to suggest that I have not produced any map site plan of internal roads and buildings of B & R colony. It is correct to suggest that no such map site plan has been annexed with the written statement. I do not know where the survey No.395 of Deh Patar is located. I do not know whether there is any other way or road to survey No.395 of Deh Patar from main Hyderabad-Badin Road except the disputed road. I do not know whether the disputed road has actually been metalled after construction of B&R colony and actually it was an ancient way from main Hyderabad -Badin Road from survey Nos.395, 400, 401. I do not know whether old owners of survey Nos.395, 400, 401 were using the ancient way prior to construction of B&R colony. I do not know whether that ancient way has been converted into this disputed road."

27. Upon evaluation the evidence produced by the respective parties, and the Report of the Commissioner appointed by the appellate Court in MA No.03 of 2013, it is clear that the Respondent No.1 has adduced evidence which is worthy of credence to substantiate his claim, who has fully established through unrebutted and admitted evidence the above-discussed four essential ingredients for the acquisition of right of Easement by Prescription, which are discussed by the Honourable Supreme Court in the case of ***Abdul Khaliq Alias Mithoo*** *supra*. The learned Appellate Court also allowed the appeal and issued an injunctive order on the basis that the Plaintiff's right of way was in existence for more than 60 years at the time of the threat. On the other hand, the Applicants/ Defendants, in their written statement, or their pleadings, or their evidence, were unable to negate such claims by plaintiff to enable them to prevent the use of the road by the

Plaintiff, and the threat by them was unlawful. Reliance in this regard is placed upon **2004 MLD 1936**. In this regard, the statements of Tapedar Tando Muhammad Khan (PW-1); Clerk of Municipal Committee Tando Muhammad Khan (PW-2) and the attorney of Plaintiff, Misri Khaskheli (PW-3) can be referred. The Plaintiff's attorney has stated in an unequivocal manner that the passage was in existence, which was never closed by anybody in the past. His version was fully corroborated by PW-1 and 2, so also the admissions by Defendants' witnesses and the Inspection Report by the Commissioner further confirmed such fact. The road was constructed by the Highway Department 25 years ago. The applicants have no authority to close the use of respondent No.1. It appears to be an admitted fact that there is a mosque, public park and other amenities on the road, under use of public at large including government offices which are meant for public and ordinary citizens visiting these offices and using this road regularly for convenience hence denial of use of same road to plaintiffs seems unjustified and discriminatory. The applicant cannot prevent Respondent No.1 from using the road.

28. Considering the evidence of the respective parties and the inspection report and applying the above discussed legal principles to the facts of this case, I am convinced that the existence of passage and its continuous use for more than 60 years stood established, hence no restraint can be imposed on the Respondent No.1 in view of section 15 of the Easements Act, 1882.

29. Lastly, I am also mindful of the fact that the instant Revision Application has been filed under section 115 CPC. against concurrent findings of facts by two Courts below, for which the first basic rule settled by the Supreme Court in the case of ***'Ikhlaq Ahmed'*** (2014 SCMR 161) is, that the scope of revisional jurisdiction is limited to the extent of misreading or non-reading of evidence, jurisdictional error or an illegality of the nature in the judgment which may have material effect on the result of the case, or if the conclusion drawn therein is perverse or conflicting to the law. The High Court has limited jurisdiction to interfere in the concurrent conclusions arrived at by the courts below while exercising powers under section 115, C.P.C. The provisions of section 115, C.P.C, under which a High Court exercises its revisional jurisdiction, confer an exceptional and necessary power intended to

secure the effective exercise of its superintendence and visitorial powers of correction, unhindered by technicalities.

30. Secondly, interference by the High Court in concurrent findings is not permissible in revisional jurisdiction, solely on the premise that appraisal of evidence may suggest another view of the matter. As held in the case of ***'Atiq-ur-Rehman v. Muhammad Amin'*** (PLD 2006 SC 309), there is a marked distinction between misreading/non-reading and mis-appreciation of the evidence, where the scope of the appellate and revisional jurisdiction must not be confused, and care must be taken for interference in revisional jurisdiction. Only in those cases in which the Order passed or the Judgment rendered by a subordinate Court is found perverse or suffering from a jurisdictional error, or where the defect of misreading or non-reading of evidence has occurred, and the conclusion drawn is contrary to law, the revisional jurisdiction is to be exercised.

31. Thirdly, concurrent findings of the Courts below, on a question of fact, are not open to question at the revisional stage, if the same are not based upon misreading or non-reading of evidence and not suffering from any illegality or material irregularity affecting the merits of the case, as held in ***Sultan Muhammad's*** case (2010 SCMR 1630).

32. Considering the above-discussed factual and legal aspects, no illegality, infirmity or jurisdictional error has been pointed out against the concurrent findings by two Courts below. Hence, for the foregoing reasons, both the Judgments impugned, dated 20.12.2017 and 25.09.2018, are upheld, and this instant Revision Application is dismissed, along with the pending applications with no order as to costs.

J U D G E