

Order Sheet
IN THE HIGH COURT OF SINDH, KARACHI

Civil Revision No.122/2010

[Muhammad Naeem and others v. Ghulam Muhammad and others]

Applicants	Through M/s. Neel Kishave and Anwar Ali Tunio, Advocates.
Respondents	Through M/s. Shahensha Hussain and Syed Arshad Ali, Advocates.
Date of Hearing	03.03.2026
Date of Order	03.03.2026

ARSHAD HUSSAIN KHAN, J.- This Civil Revision Application arises out of the judgment and decree dated 30.11.2006 and 04.12.2006, passed by the trial court, whereby the suit filed by Respondent No.1 was decreed, and the appellate judgment and decree dated 05.04.2010 and 07.04.2010, whereby the appeal preferred by the present applicants was dismissed and the trial court decree was maintained. This Civil Revision was earlier decided by this Court, vide judgment dated **17.09.2018**, whereby the suit was dismissed on the grounds of material irregularities and illegalities in the judgments of the courts below. However, the Hon'ble Supreme Court subsequently remanded the matter to this court for a fresh decision.

2. Concisely, the facts of the case are that Respondent No.1, Ghulam Muhammad, filed Suit No.133 of 2000 seeking declaration of ownership of the suit land and cancellation of alleged allotment entries favoring the applicants. An ex-parte decree was initially passed in his favor; however, the same was later set aside under Section 12(2) CPC and Order 47 CPC, where after the applicants were impleaded as private defendants. The trial court framed ten issues, including additional Issue No.7-A concerning cancellation of the disputed entries, and both parties led evidence in support of their respective claims. During the proceedings, the Mukhtiarkar Revenue, Shah Bandar, submitted report Ex.123-A/B regarding the Haq-e-Qabza Yaddasht and the revenue entries relied upon by Respondent No.1. Upon conclusion of the trial, the suit was decreed in favor of Respondent No.1. The applicants preferred an appeal, which was dismissed by the appellate court through a detailed judgment maintaining the decree of the trial court, where after the present Civil Revision Application was filed before this Court.

3. This Court in its earlier judgment dated **17.09.2018**, observed that the trial court and appellate court had erred in assessing the case cumulatively and in favoring Respondent No.1 on the basis of perceived weaknesses in the defendants' evidence, instead of determining whether the plaintiff had discharged the burden of proof. The Court noted that, according to report Ex.123-A/B submitted by the Mukhtiarkar Revenue, Shah Bandar, and the Haq-e-Qabza Yaddasht and related entries relied upon by Respondent No.1 were found to be forged and manipulated. It was further observed that Respondent No.1 had not summoned the relevant officials nor produced primary record to verify the authenticity of the documents relied upon. The Court therefore concluded that the plaintiff/respondent had failed to establish entitlement to the suit land, and the decree in his favor could not be sustained. The suit was consequently dismissed, while the applicants were left at liberty to seek remedy in accordance with law.

4. Against the judgment of this Court dated **17.09.2018**, the plaintiff of the aforesaid suit preferred Civil Appeal No.15-K of 2020 before the Supreme Court of Pakistan. The appeal was heard by the Honourable Court, and with the consent of learned counsel for the parties as well as the learned Additional Advocate General, the matter was remanded to this Court for fresh decision after hearing the parties and evaluating the evidence available on the record through a well-reasoned order. In compliance with the remand order, the present Civil Revision Application has been placed before this Court for decision afresh.

5. Learned counsel for the applicants contended that the judgments and decrees of the trial court dated 30.11.2006 & 04.12.2006 and the appellate court dated 05.04.2010 & 07.04.2010 were contrary to law and evidence having been passed on the basis of misreading and non-reading of material documents. He submitted that Issue Nos. 4, 6 and 7 were wrongly decided in favour of Respondent No.1 despite the report dated 12.11.2003 [Exh.123-A] of the Mukhtiarkar Revenue, Shah Bandar, which declared Entry No.7 and the alleged Haq-e-Qabza Yaddasht to be forged and not reflected in official record. It was further argued that Respondent No.1 failed to produce the alleged sale deed or any primary revenue record to establish title, and that the burden of proof was improperly shifted onto the defendants. Learned counsel maintained that revenue entries do not confer title, that material documentary evidence

including revenue receipts and VF-VII entries was ignored, and that the courts below failed to properly appreciate the legal effect of orders passed by the revenue authorities. He thus submitted that the concurrent findings suffered from material irregularity warranting interference in revisional jurisdiction.

6. Learned counsel for respondent No.1, while supporting the concurrent findings of the courts below contended that the suit was rightly decreed as the respondent had produced documentary evidence including Haq Qabza Yaddasht dated 30.03.1966, Deh Form-VII, land revenue receipts and other allied documents to establish the original title of Mst. Dhanjani and its subsequent devolution. It was argued that the entries in the revenue record carry a presumption of truth under the relevant law and such presumption could not be lightly discarded. Learned counsel further submitted that the report of Mukhtiarkar Revenue, Shah Bander (Ex.123-A), was merely an internal departmental communication, not the result of any adjudicatory proceedings after notice to the respondent, and therefore could not override long-standing revenue entries. It was also contended that the applicants, claiming through subsequent entries and alleged grants, failed to establish a lawful source of title and did not produce any conclusive evidence to dislodge the respondent's ownership. Emphasis was laid on the principle that concurrent findings of fact recorded by two courts below are not to be interfered with in revisional jurisdiction unless suffering from jurisdictional defect, misreading or non-reading of evidence. Learned counsel, therefore, prayed that the Revision Application be dismissed.

7. Learned Additional Advocate General, Sindh, appearing for official respondents [respondents No.2 to 7] contended that the revenue record produced before the trial court, particularly the report of the Mukhtiarkar Revenue, Shah Bander (Ex.123-A), clearly reflected that the alleged Haq Qabza Yaddasht and subsequent entries in favour of the plaintiff were not traceable in official record and were found to be manipulated. He submitted that no allotment or grant could legally be recognized unless supported by proper sanction and available record in the office of the Deputy Commissioner. Learned A.A.G. further argued that if the foundational entry itself is doubtful, no declaratory relief could be granted on its basis against the Government.

8. I have heard learned counsel for the parties, perused the record, and considered the submissions in light of the remand order of the Honourable Supreme Court.

9. At this stage, Learned Additional Advocate General Sindh submits that, in fact, Respondent No.1 had not summoned the relevant officials nor produced primary record to verify the authenticity of the documents relied upon and the official defendants have not participated in the proceedings nor produced any evidence as such it would be appropriate that the matter be remanded to the trial court to decide afresh after providing opportunity to the official defendants to record their evidence. Learned counsel for the respondent No.1 extends his No Objection in the event if the matter is remanded for decision afresh after recording evidence of the official defendants. Learned counsel for the applicants have abstained from giving any consent to such proposal.

10. In view of the above, and taking into account the submissions of the Additional Advocate General, Sindh, who has indicated that the official respondents have not participated or recorded evidence, and the submissions of learned counsel for the respondent No.1, it is imperative that the matter be remanded to the trial court. Consequently, the matter is remanded to the trial court for fresh adjudication in accordance with law within a period of six (6) months. The judgment and decree of the trial court dated 30.11.2006 & 04.12.2006 and of the appellate court dated 05.04.2010 & 07.04.2010, are set aside.

11. The trial court, while conducting proceedings on remand, shall independently examine all evidence on its merits in accordance with law and shall provide a proper opportunity to the official defendants to lead their evidence regarding the alleged Haq-e-Qabza Yaddasht, revenue entries, and any related documents. After recording and evaluating all evidence, the trial court shall decide all issues afresh and pass a well-reasoned judgment determining the rightful ownership of the suit land.

The Civil Revision Application is disposed of along with the pending application, if any.

JUDGE