

ORDER SHEET
THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Civil Revision No. S-95 of 2025

Applicant : Ehtaram Ali Khan (decd.) through his LRs through Mr. Nadeem Abbasi, Advocate

Respondent No. 1 : Kashif @ Qasim Raza not represented

Respondents Nos. 2 to 9 : Mukhtiarkar (Revenue), Kotri and others through Mr. Muhammad Sharif Solangi, Assistant Advocate General Sindh.

Date of Hearing : 04.09.2026

Date of Order : 10.09.2026

ORDER

Muhammad Humayon Khan, J.: The Applicant had filed First Class Suit No. 188 of 2015 before the learned Senior Civil Judge-I, Umerkot, for declaration, mesne profit, possession and permanent injunction. The case of the Applicant was that he is the owner of multiple plots out of multiple blocks of land in Deh Chajjaro and Goraho, Taluka Kunri, District Umerkot (described in the plaint). Out of the said land, the Applicant claimed that an area of about 150 square feet out of Survey No. 263/1 of Deh Goraho (hereinafter the “suit land”) was occupied by the Respondent No. 1 and upon requesting him to vacate the suit land, he failed to do so and instead threatened the Applicant.

2. The suit has been through two rounds of litigation. During the first round, the Respondent No. 1 was proceeded *ex parte* and by Judgment dated 13.01.2016 and Decree dated 18.01.2016 the suit had been decreed. The said Judgment and Decree were challenged in Civil Appeal No. 05 of 2016 by the Respondent No. 1 and which was allowed and the suit was remanded to the learned Senior Civil Judge.

3. Thereafter, the Respondent No. 1 contested the proceedings and filed his written statement. The Respondents Nos. 2 to 9 did not contest and were proceeded *ex parte*. After framing of issues and evidence thereon, the learned Senior Civil Judge passed Judgment dated 30.11.2024 and Decree dated 07.12.2024 and dismissed the suit. The Applicant challenged the said Judgment and Decree in Civil Appeal No. 01 of 2025 which too was dismissed by the learned Additional District Judge-II, Umerkot, by Judgment dated 23.07.2025. (It has been stated by the Applicant that the decree has not been prepared yet by the learned Additional District Judge.) The Applicants have now challenged the Judgment before this Court in this revision application.

4. The revision was taken up on a number of dates and multiple notices were issued to the Respondent No. 1 and ultimately were served upon him through the learned Senior Civil Judge-I, Umerkot. The matter came up before me on 04.09.2026 when I heard Mr. Nadeem Abbasi, Advocate for the Applicant, and Mr. Muhammad Sharif Solangi, the Assistant Advocate General Sindh, and by means of my short-order of even date I had reserved the case for judgment.

5. Learned Mr. Nadeem Abbasi for the Applicant filed his written synopsis in which he contended that both the impugned Judgments and Decree are based upon misreading and nonreading of material evidence. He contended that the learned Courts below have relied on two documents, namely Order No. PS/SMBR/R.C./BOR/2008 dated 14.07.2008 of the Senior Member, Board of Revenue Sindh, and Order No. DO(R)/639 of 2008 dated 21.07.2008 of the District Officer (Revenue), Umerkot, however, they have seriously misread the said Orders in holding that by their virtue the Entry No. 166 (I do not mention a specific date because different dates are mentioned on the record) has been cancelled although only a few words in the entry were directed to be removed. He further contended that the learned Senior Civil Judge had failed to hear the Applicant and thereby acted in violation of Art. 10A of the Constitution of the Islamic Republic of Pakistan and the rule of *audi alteram partem*. He raised other arguments as well, but for now the Court is concerned with only these two. He relied on Black's Law Dictionary (Revised 4th edn) for the definition of *audi alteram partem* and on Art. 10A he referred to *Chairman NAB v Nasar Ullah* PLD 2022 SC 497 and *Town Committee Piplan v Muhammad Hanif* 2008 SCMR 723. Learned Counsel also argued on the scope of revision under s. 115 of the CPC, contending that this Court can interfere in the concurrent findings of fact by the learned Courts below being based on clear misreading and nonreading of evidence or on a misinterpretation or nonapplication of the relevant law. He finally prayed for the revision to be allowed.

6. Mr. Muhammad Sharif Solangi, the learned Assistant Advocate General, opposed this application and supported the findings of the learned Courts below. He gave a detailed history of the record of rights in respect of the suit land as per the Objections filed by the Mukhtiarkar (Revenue) Kunri in this Court on 26.01.2026. His arguments were effectively a reiteration of the observations of the learned Court below.

7. Before proceeding further, I may note that, ordinarily, a second appeal would have lain against the judgment and decree in a first appeal, however, because according to the available record, no decree has been prepared by the learned Additional District Judge and no effort has been made by the Respondents to bring any contrary position on the record, it seems that there is only a judgment by the

learned Additional District Judge. In *Karim Dad v Arif Ali and another* PLD 1978 Lahore 679, it was held by the Lahore High Court that, in the absence of a decree, a second appeal would not lie and therefore a revision was held to be maintainable. I agree with the judgment in *Karim Dad* and, following the same principle, I would hold this application to be maintainable.

8. I now turn to the present case. In my view, the learned Counsel for the Applicant is correct to argue that the learned Courts below have misread the Orders of the Senior Member and the District Officer (Revenue). The title of the Applicant is driven through a number of entries with the relevant one being Entry No. 166 in Village Form-VII (Old) of Deh Chajro/Goraho. It will be seen that, by Order dated 14.07.2008, the Senior Member had directed not for the entire entry to be cancelled but that “[t]he vague words mentioned in the village Form-II carry no signature and no purpose. By issuing proper order vague words should be removed according to procedure...” The Order of the Senior Member was communicated to the District Officer (Revenue), Umerkot, who then passed his Order dated 21.07.2008 in the following terms (bold and underlining in original; italics for emphasis):

“ORDER OF THE DISTRICT OFFICER (REVENUE) UMERKOT

In view of the facts discussed above and in pursuance of letter dated 14.07.2008 of Senior Member, Board of Revenue Sindh, Karachi, the Mukhtiar (Revenue) Kunri is *directed to remove the vague note from entry No. 166 dated 12.08.1979* of Deh form-II of deh Chhajro/Goraho Taluka Kunri of Khatedar Ehtram Ali S/o Imtiaz Ali Khan. He is further directed to cancel the forged certificate and demarcation mentioned in the said certificate and restore the original position of plots in question after carrying out demarcation in his presence by constituting a team of senior Supervising Tapedars/Tapedars immediately if there is no any other legal hitch.”

9. The “vague words” sought to be removed from the entry are also stated in the Order dated 21.07.2008 as “R&R Ex-185 Judge” which *prima facie* do not have the effect of nullifying the entry in its entirety. (The words are probably a note of exhibition of the entry in evidence in some court proceeding, but there is no record whatsoever of what the said proceeding was.) However, it appears that both the learned Courts below have proceeded on a clear misreading of the Order by observing that the entire entry was cancelled, which is not true on the face of the record. The learned Senior Civil Judge has relied upon a statement made by Yousuf Ali Khan (PW-1), L.R. (b) of the Plaintiff (PW-1; Exh-74), but it will be seen that he has done so without considering the context of the matter. The relevant finding is on Issues Nos. 8, 9 and 10 and reads as follows:

“... During cross-examination the plaintiff Yousif Ali Khan has deposed as under:-

‘.....It is correct that entry No. 166 annexed with the plaint, wherein cancellation of entry is mentioned showing certificate and copy dated 19.10.2012 was issued. It is correct to suggest that my father never challenged order dated 14.07.2008 Member Board of Revenue Sindh Karachi.

In view of above admission of the plaintiff Yousif Ali Khan it is very much evident that the plaintiff is no more owner of the suit property and thus he is not entitled for the possession of same in any manner...”

In his cross-examination, however, he has not made this statement in the context in which it has been understood by the learned Senior Civil Judge and the learned Additional District Judge. On the contrary, it has been clearly stated that “[i]t is incorrect to suggest that entry No. 166 has been cancelled by Senior Member Board of Revenue Sindh Karachi vide Order dated 14.7.2008 and D.O Umerkot order dated 21.7.2008.” The subsequent statement appears to be in reference to a question put to the witness and is clearly not an admission against the established facts.

10. In my view, the learned Courts below have proceeded with a serious misunderstanding of the applicable law. Even if the statement of the Applicant is considered to be an admission, it clearly contradicts the established facts according to the orders of the revenue officials and it will not be binding. The learned Courts below were bound to apply their judicial minds to the facts of the case but, with all due respect, it is evident that this was not done. It is well-established that an admission against established facts or in ignorance of a legal right is not binding on its maker. Reference may be made to *Barkhurdar v Muhammad Razzaq* PLD 1989 SC 749, *Ahmad Khan v Rasul Shah and others* PLD 1975 SC 311 and *Fida Muhammad and another v Umar Khitab* 2013 CLC 1171.

11. One aspect that remains to be discussed is that the learned Courts below seem to have hastily decided the matters. The learned Courts below have not discussed or confronted the arguments of the Applicant. In the learned Senior Civil Judge’s judgment there is a generalised mention that the arguments of the parties have been heard, whereas in the learned Additional District Judge’s judgment there is only a one-line statement. In my view, the impugned Judgments are reflective of a hasty and slipshod disposal of the matter without reasonable consideration of either the parties’ arguments or their evidence and, that being so, the Court has no option but to at least hold that the Applicant was not meaningfully heard and which is in violation of the right to a fair trial under Art. 10A of the Constitution of the Islamic Republic of Pakistan, 1973, and the maxim *audi alteram partem*. In *Sanaullah Sani v Secretary Education Schools and others* 2024 SCMR 80, the Supreme Court has seriously deprecated non-speaking and slipshod judgments (para 11):

“Apart from discussing the merits of this case, we also wish to observe the quality of the Tribunal’s judgment. It is to be noted that dictates of law are that a judicial order must be speaking order manifesting by itself that the Court or Tribunal has made an effort to resolve the questions involved for their proper adjudication. A diligent attempt may lead to ultimate result, but if the final order does not bear an imprint of that effort and, on the contrary, discloses arbitrariness or thought and action, the feeling with painful result that justice has neither been done nor seems to have been done is inescapable. Here, the Tribunal’s judgment does not exhibit a judicious treatment of the case and the determination of the dispute. It was the duty of the Tribunal to deal with all the issues we pointed out above because appeal was a valuable right of the employee. Unfortunately, the Tribunal did not make a bid for appraisal of any of the grounds advanced before it by the present petitioner. This is a dereliction of duty and a complete failure to exercise jurisdiction. The judgment of the Tribunal, therefore, cannot be held valid.”

12. I have therefore concluded that the impugned Judgments and Decree suffer from material illegalities and irregularities and require interference in revisional jurisdiction under s. 115 of the CPC.

13. For these reasons, I allow this revision application by setting aside both the impugned Judgments and the learned Senior Civil Judge’s decree and remand the suit back to the learned Senior Civil Judge to take up the suit from the stage of final argument and, after issuing court-motion notices to the parties and affording fair opportunities of hearing to all the parties, to dispose of the case through a well-reasoned and speaking Judgment and follow-up Decree strictly in accordance with the law. The learned Senior Civil Judge shall be bound to dispose of the case within sixty (60) days from the date of this Judgment under months compliance reports to this Court and shall not allow any laxity to any party.

14. All pending applications are disposed of. Office is directed to communicate a copy of this judgment to the learned Senior Civil Judge for information and necessary compliance.

JUDGE

APPROVED FOR REPORTING

****Faisal****