

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN,
REGISTRY BRANCH SKARDU**

Civil Appeal No. 06/2014

In

CPLA No. 99/2014

Akhun Mukhtar Ali

Petitioner.

VERSUS

Provincial Govt & others

Respondents.

Present:-

1. Mr. Muneer Ahmed Advocate for petitioners.
2. The Advocate General for respondents.

ORDER DATED: - 03.05.2017.

At the very outset the learned counsel for the petitioner submits that the learned trial court although framed twelve (12) issues yet the same were not resolved/ settled on the basis of the evidence produced by both the parties. As per the learned counsel admittedly the suit land was/is the ownership of the respondents i.e. Provincial Government. The petitioner on the basis of the possession of the said land filed Suit for declaration and permanent injunctions. The learned trial Court observed and held in the judgment dated 27.06.2012 passed in Civil Suit No. 67/2008 that the land in question will remain in the possession of the petitioners unless the same has not been taken by the Provincial Government. The plaintiffs were directed not to make any further improvement in the said suit land. In case any improvement is made, the plaintiffs will not be entitled for any compensation. On such observation the case of the petitioner was disposed off. Subsequently the learned

First Appellate Court in appeal framed and settled 08 issues. After hearing the counsels for the respective parties, the appeal was dismissed vide judgment dated 16.06.2014. The protection of the possession given by the learned Trial Court to the petitioners was set aside, however, the District Collector was directed to vacate the suit property from the illegal occupancy of the petitioners by exercising his powers under the Natore Rules. The petitioners being aggrieved by and dissatisfied with the order of the learned First Appellate court filed Civil Revision No. 42/2014 in the learned Chief Court which upon hearing was also dismissed vide impugned Order dated 27.06.2014 by holding that the petitioner hopelessly failed to convince that the petitioner without title can claim to file a Civil Suit for declaration and permanent injunction.

2. Be it may, we without touching the merits of the case, observe and hold that it was primary duty of the learned trial Court to resolve/settle the issues on the basis of the evidence and materials on record which the learned trial Court had failed to perform his legal duty. We, therefore, in the interest of justice, remand the case back to the learned trial Court to resolve/settle the issues framed on the basis of the record and after hearing the case afresh expeditiously decide in its own merits within a period of three (03) months without being influenced by any of the observation(s) earlier made by its own court, First Appellate Court, Revisional Court and/or by this court. The Civil Suit No. 67/2008 be treated as pending adjudication. Consequent thereto, the impugned

Order dated 27.06.2014 passed in Civil Revision No. 42/2014 by learned Chief Court as well as the judgment dated 16.06.2014 in CFA No. 20/2012 (ADJ), 29/2014 (DJ) passed by learned District Judge Skardu & the Order dated 27.06.2012 in Civil Suit No. 76/2008 passed by the learned Civil Judge Skardu are set aside. The parties are, however, have to maintain the status quo till the cognizance is taken by the learned trial Court.

3. The case is remanded back to the learned trial Court in above terms.

Chief Judge.

Judge.