

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN,
GILGIT.**

Before:-

- 1. Mr. Justice Dr. Rana Muhammad Shamim, Chief Judge.**
- 2. Mr. Justice Muzaffar Ali, Judge.**

**Civil Appeal No. 11/15 in
CPLA NO.55/2014**

Ashoor khan & Others

Petitioners

Versus

Qasim Shah & Others

Respondent

PETITION FOR LEAVE TO APPEAL UNDER ARTILCE 60 OF GILGIT-BALTISTAN (EMPOWERMENT & SELF GOVERNANCE ORDER 2009 AGAINST THE JUDGEMENT/DECREE DATED 30-08-2013 PASSED BY CHIEF COURT GILGIT-BALTISTAN.

Present:-

Mr. Johar Ali Advocate for petitioners.
Amjad Hussain Advocate for respondent

DATED OF HEARING:- 14-09-2015.

ORDER

Dr. Rana Muhammad Shamim, CJ----The leave to appeal is granted by this Court on 28-04-2015 and notices were issued to the respondents in order to decide the case on merits. The learned Counsel for the petitioners contended that impugned Judgment in Civil Review 05/2013 dated 30-08-2013, passed by the learned single Judge, Chief Court, Gilgit-Baltistan was incorrect, baseless, and the same is against the facts and record of the case and liable to set aside. He also contends that impugned Judgment of Learned Chief Court, Gilgit–Baltistan is arbitrary and against the principles of natural justice and equity, hence not maintainable. He also submitted that impugned judgment passed by the Learned Additional District Judge

and the Learned Civil Judge Gilgit was well founded and based on merits. He further submits that the impugned judgment is not maintainable being perverse and misconceived. On the other hand, Mr. Amjad Hussain Advocate appearing on behalf of the respondent No.1 submitted that no infirmity and illegality was pointed out in the impugned judgment passed by the Hon'ble Chief Court Gilgit-Baltistan. He has drawn our attention towards the page 21(Better copy at Para) 21 (b) of Para 5,6 and 7as per above mentioned Para's the a case filed by the respondent No. 1 against one Roshan Ali the year 1996, consequently the name of Lated Roshan Ali was deleted from Jama Bandi maintained in 1961 in respect of Khewat No. 81. He further submitted that this was in the knowledge of the petitioner and the petitioner with misrepresentation obtained ex-party Judgment/Decree in his favour by including Khewat No.81 without impleading the respondent No. 1 in Civil Suit No. 202/98.

The application under section 12(2) CPC was filed by the respondent No.1, when the petitioner under umbrella of the said ex-party decree tried to take possession of this land i.e. khewat No. 81 Khasra No. 239 to 241. He further contended that the father of the respondent No. 1 Purchased the land under khewat No. 72-75 from one Roshan Ali S/o Safdar Ali vide mutation No. 499 dated 29-12-1951, whereas, the land under khasra No. 339 to 241 khewat No. 81 was ancestral land of the father of the petitioner which after his death devolved upon his legal heirs.

The learned counsel for the respondent No.1 further contended that the judgment/decree acquired by the petitioner through fraud and misrepresentation is liable to set aside. He contended that the learned Chief Court, Gilgit-Baltistan after considering facts and law has rightly set aside the order in Civil First Appeal No: 47/2009 dated 17.12.2012 of the First Appellate Court and order in Civil Misc. 28/2006, dated 01-08-2009 of the learned trial Court. Consequently, the case was rightly remanded to the learned trial Court

with the directions to start the case from the stage where it was stop/ given up. He concluded his contention with the arguments that the petitioner has no case to solicit interference in the impugned judgment of the learned Chief Court, Gilgit Baltistan.

We have heard the learned Counsel for both the parties, and perused the case file and we are in agreement with the contentions raised by Mr. Amjad Hussain, the learned Counsel for respondent No. 1 and interference is not warranted in the impugned judgment in Civil Revision No. 05 /2013 dated 30-08-2013 passed by the learned Chief Court, Gilgit-Baltistan. Consequently petition is converted into appeal and dismissed with no order to cost.

Chief Judge

Judge

Whether the case is fit to be reported or not?