

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

Before:

Mr. Justice Rana Muhammad Shamim, Chief Judge.

Mr. Justice Javed Iqbal, Judge.

Civil Appeal. No. 02/2017

in

CPLA. No. 100/2015.

Fida Muhammad

Petitioner.

Versus

Forest Department & 08 others

Respondents.

PRESENT:-

1. Mr. Muhammad Issa senior Advocate alongwith Mr. Malik Shafqat Wali Senior Advocate and Mr. Johar Ali Khan Advocate-on-Record for the petitioner.
2. The Advocate General on behalf of respondents.

DATE OF HEARING: - 07.03.2017.

DATE OF DETAIL JUDGMENT: - 14.03.2017.

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This Civil Petition for leave to appeal has arisen out of the impugned judgment dated 21.11.2013 in Civil Revision No. 27/2007 passed by the learned Chief Court whereby the Civil Revision of the respondents was allowed and the case was remanded back to the learned Trial Court for denovo trial by setting aside the impugned judgment dated 06.06.2007 of the learned Additional District Judge Astore and the judgment dated 17.02.2005 passed by the learned Trial Court Chilas District Diamer. The petitioners being aggrieved by and dissatisfied with filed this petition for leave to appeal.

2. Briefly facts of the case are that the plaintiffs/respondents filed Civil Suit No. 03/1998 and 32/1998 against the petitioners for declaration to the effect that the suit land is part of Forest Zone and the mutation and various allotments in favour of the petitioner No. 01 are illegal and unlawful. The learned Trial Court upon hearing dismissed the said suit declaring it meritless not maintainable and time barred vide judgment dated 17.02.2005. On appeal the learned Additional District Judge Astore dismissed the appeal of the respondents/plaintiffs by maintaining the judgment of the learned Trial Court. The respondents/plaintiffs preferred Civil Revision No. 27/2007 before the learned Chief Court which upon hearing was allowed by setting aside the judgments/orders of the learned Courts below, hence, this petition for leave to appeal.

3. The learned counsels for the petitioner submit that the suit of the respondents was miserably time barred, not maintainable and meritless which was rightly dismissed by the learned Trial Court vide judgment dated 17.02.2005 and the same was upheld by the learned First Appellate Court vide order dated 06.06.2007. They also submit that the allotment order was made on 11.12.1974 in favour of the petitioner/defendant after proper proceeding while the suit was filed by the respondents in the year 1998 after lapse of 22 years. They also submit that the respondents including Provincial Government of Northern Areas have waived their rights by not contesting the suit and they did not filed any

appeal or Revision Petition during the whole litigation from the learned Trial Court up to the learned Chief Court. They further submit that the learned Chief Court Gilgit-Baltistan has wrongly transposed the Chief Secretary, Government of Gilgit-Baltistan as plaintiff during the hearing of the Revision Petition as the Chief Secretary has already waived his right of suing as plaintiff through his allotment dated 26.09.1996 by upholding the previous allotment order dated 11.12.1974 in favour of the petitioner/defendant. They finally submit that the impugned judgment dated 21.11.2013 in Civil Revision No. 27/2007 passed by the learned Chief Court is not tenable and liable to be set aside being passed contrary to the law and facts of the case.

4. On the other hand, the learned Advocate General appearing on behalf of the respondents supports the impugned judgment dated 21.11.2013 in Civil Revision No. 27/2007 passed by the learned Chief Court. They contend that the learned Additional District Judge Astore dismissed the First Appeal of the respondents without giving opportunity of hearing to the respondents which is against the principle of justice. He also submits that the learned Chief Court has rightly set aside the order of the learned Additional District Court Astore through its impugned judgment which is well reasoned and well founded. He prays that the same may graciously be upheld.

5. We have heard the learned counsels for the respective parties at length, perused the record of the case file and gone the

impugned judgment dated 21.11.2013 in Civil Revision No. 27/2007 passed by the learned Chief Court. The learned Chief Court has rightly held that a Government Department can not sue any person without arraying the Provincial Government of Gilgit-Baltistan as plaintiff. The learned Trial Court as well as the learned First Appellate Court have failed to take notice of this fact. Furthermore, the learned counsels for the petitioner could not point out any illegality/infirmity in the impugned judgment, therefore, no interference is warranted into it.

6. In view of the above discussions, we converted this petition into an appeal and the same was dismissed vide our short order dated 07.03.2017. Consequently, the impugned judgment dated 21.11.2013 in Civil Revision No. 27/2007 passed by the learned Chief Court was maintained. These were the reasons of our said short order.

7. The Appeal is dismissed in above terms.

Chief Judge.

Judge.

Whether the case is Fit to be reported or Not?