

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

Before:-

Mr. Justice Dr. Rana Muhammad Shamim, Chief Judge.

Mr. Justice Javed Iqbal, Judge.

Mr. Justice Shahbaz Khan, Judge.

**Civil Appeal No. 03/2016 in
CPLA. No. 01/2016.**

Jaffar Ali s/o Zakir Ali r/o Shaheed Colony Tehsil and District Skardu **Petitioner.**

Versus

Jawad Ali s/o Ahmed Joo r/o Braska Ranga Tehsil Gamba District Skardu. **Respondent.**

PETITION FOR LEAVE TO APPEAL UNDER ARTICLE 60 OF GILGIT-BALTISTAN (EMPOWERMENT & SELF GOVERNANCE) ORDER 2009 READ WITH RELEVANT PROVISIONS OF GILGIT-BALTISTAN SUPREME APPELLATE COURT RULES 2008, AGAINST THE IMPUGNED JUDGMENT OF THE LEARNED CHIEF COURT GILGIT-BALTISTAN DATED 27.10.2015, WHEREBY THE LEARNED GILGIT-BALTISTAN CHIEF COURT ACCEPTED THE CIVIL 2ND APPEAL FILED BY THE RESPONDENT AND DECREED THE SUIT FOF RESPONDENT ON FLIMSY GROUNDS.

PRESENT:-

1. Mr. Muhammad Iqbal Advocate for the petitioner.
2. Mr. Akhon Muhammad Ali Advocate on behalf of the respondent.

DATE OF HEARING: - 26.04.2016.

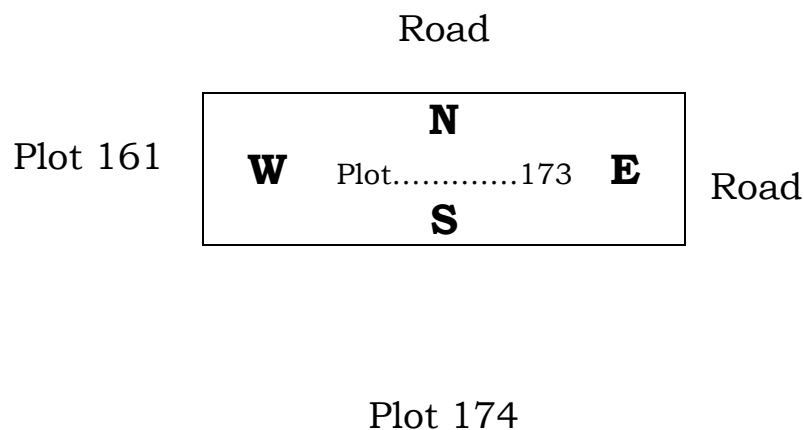
DATE OF DETAIL JUDGMENT:- 02.05.2016.

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This petition has been arisen out of the impugned judgment dated 27.10.2015 in CSA No. 11/2014 passed by the learned Gilgit-Baltistan Chief Court whereby the appeal of the respondent was accepted while setting aside the judgment dated 10.12.2014 of the learned Additional District Judge Skardu whereas the judgment dated 27.09.2014 of the learned Trial Court was maintained. The petitioner feeling aggrieved by and dissatisfied with filed this petition for setting aside the said impugned judgment and to

maintain the judgment passed by the learned Additional District Judge Skardu. This court issued notice to the respondent vide order dated 30.03.2016 and the case was heard on 26.04.2014.

2. The learned counsel for the petitioner submits that the Inspector General, Northern Light Infantry (NLI) Chairman NLI Welfare Trust was pleased to allot a plot No. 173 measuring five marlas on 28.12.1991 under allotment No. 258/4/MC/Property-5, situated Shaheed Colony Skardu to the petitioner in recognition of the services of his father during his service. He also submits that the said plot is in possession of the petitioner since its allotment and the petitioner constructed a house over the said plot and presently the petitioner lives in the said house. He further submits that in pursuance of the allotment order dated 28.12.1991, the Inspector General Northern Light Infantry/ Chairman Welfare Trust is pleased to allot a residential plot No. 173 measuring five (05) marlas at Mujahid Colony Skardu out of Northern Light Infantry land to Mr. Jaffar (son) No. 2835226 Naik Zakir Hussain 4 NLI Bn as Welfare and rehabilitation measure as per following demarcation:-



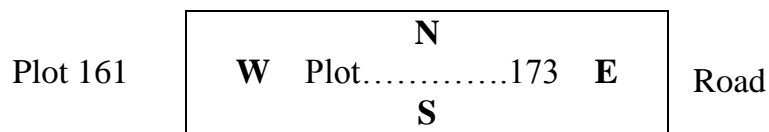
3. He further submits that the demarcation made and the possession of the said plot was given to the petitioner by HQ 62 Brigade. The above plot will not be sold/ transferred to any other person without written permission of NLI Centre, failing which the allotment will automatically be treated as cancelled. For convenience the allotment letter No.258/4/MC/Property-5 dated 28.12.1991 containing mandatory conditions laid down therein is reproduced as under:-

Northern Light Infantry
Regiment Centre
Bunji Cantt (Gilgit)
258/4/MC/Property-5
28 December 1991

ALLOTMENT ORDER.

1. Inspector General, Northern Light Infantry (NLI) Chairman NLI Welfare Trust was pleased to allot a plot No. 173 measuring five marlas at Shaheed Colony Skardu out of Northern Light Infantry land Khasra number _____ to Mr. Jaffar (Son) No. 2835226 Naik Zakir Hussain 4 NLI Bn As Welfare and rehabilitation measure as per following demarcation:-

Road



Plot 174

2. The possession/demarcation of land will be given by the property officer of Northern Light Infantry Welfare Trust/HQ 62 Bde.
3. The above plot will not be sold/transferred to any other person without written permission of NLI centre, failing which the allotment will automatically be treated as cancelled.

Colonel
Vice Chairman
NLI Welfare Trust
(Nazir Ahmed)

4. He further submits that on the other hand, the respondent is claiming that the plot No. 154 was allotted to one Subedar Major Hassan resident of Katpanah through a gift deed in his favor who was stranger. He contends that no plot can be transferred and possession thereto be given without the permission of Head Quarter Northern Light Infantry. The respondent filed Civil Suit No. 29/2012 before the learned Civil Judge Skardu for declaration and possession with the contention that the plaintiff is the owner of the suit property. Upon hearing, the learned Civil Judge Skardu vide judgment dated 27.09.2014 decreed the suit property in favor of plaintiff/respondent who were stranger. The petitioner being aggrieved challenged the said judgment before the learned Additional District Judge Skardu in CFA No. 46/2014. Wherein, the learned Additional District Judge Skardu reversed the impugned judgment and decreed the appeal of the petitioner through judgment dated 10.12.2014 in CFA No. 46/2014. The respondent feeling aggrieved and dissatisfied with the said impugned judgment filed CSA No. 11/2014 before the learned Gilgit-Baltistan Chief Court. Upon hearing, the learned Gilgit-Baltistan Chief Court vide its judgment dated 27.10.2015 accepted the appeal and set aside the impugned judgment passed by the learned District Judge, hence, this petition for leave to appeal for setting aside the impugned judgment as well as the judgment passed by the learned Trial Court Skardu. He further submits that the judgment of the learned District Court was based on facts and

law whereas the impugned judgment dated 27.10.2015 passed by the Chief Court and judgment dated 10.04.2014 of the learned Civil Judge Skardu were the result of non-reading and misreading of the facts of the case and implication of misconception of law hence, the same are required to be set aside.

5. On the other hand the learned counsel for the respondent supports the impugned judgment dated 27.10.2015 passed by the learned Chief Court and the judgment passed by the Trial Court being well reasoned are sustainable. No interference is warranted thereto. The judgment passed by the learned Additional District Judge Skardu was not tenable and liable to set aside.

6. We have heard both the learned counsels for respective parties at length, perused the record of the case file and gone through the judgments of the courts below as well as allotment Order No. 258/4/MC/Property-5. Admittedly, the plot No. 173 was allotted by NLI Regiment Center Bonji to the petitioner's father on 28.12.1991. The mutation of the said plot attested on 11.03.1991 and the possession of same was given to him by 62 Brigade. The said plot is in the possession of the petitioner who has constructed a residential house over this plot after demarcation made/possession given by the Head Quarter 62 Brigade.

7. In view of the above discussion, in our considered view the impugned judgment dated 27.10.2015 in CSA No. 11/2014 passed by the learned Gilgit-Baltistan Chief Court is not well

founded and the judgment dated 10.12.2014 in CFA No. 46/2014 passed by the learned District Judge Skardu is well reasoned and in accordance with facts and law. Consequently, we converted this petition into an appeal and the same was allowed vide our short order dated 26.04.2016. The impugned judgment dated 27.10.2015 in CSA No. 11/2014 passed by the learned Gilgit-Baltistan Chief Court as well as the judgment dated 27.09.2016 in Civil Suit No. 29/2012 passed by the Civil Judge 1st Class Skardu are set aside. Whereas, the judgment dated 10.12.2014 in CFA No. 46/2014 passed by the learned Additional District Judge Skardu is maintained. These were the reasons for our said short order.

8. The appeal is allowed.

Chief Judge.

Judge.

Judge.

Whether the case is fit to be reported or not?