

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

BEFORE:-

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

Mr. Justice Muzaffar Ali, Judge.

**Civil Appeal No. 31/2015 in
CPLA NO.20/2012.**

Muhammad Alam S/o Aziz R/o Pingal Tehsil Gupis District Ghizer through his legal Representatives:-

1. Muhammad Zabar Khan S/o Muhammad Yaqoob.
2. Zarak Shah.
3. Ibrahim Shah
4. Martaba Khan S/o late Muhammad Alam R/o Pingal Tehsil Gupis District Ghizer.

PETITIONER/APPELLANTS)

VERSUS

1. Shah Jahan S/o Muhammad Yaqoob.
2. Zabarao S/o Muhammad Yaqoob.
3. Shah Babar S/o Wali abad R/o Pingal Tehsil Gupis District Ghizer.
4. Collector District Ghizer.

(RESPONDENTS)

PETITION FOR LEAVE TO APPEAL UNDER ARTICLE 60 OF GILGIT-BALTISTAN (EMPOWERMENT & SELF GOVERNANCE) ORDER, 2009 BY GRANTING THIS PETITION FOR LEAVE TO APPEAL , THIS PETITION MAY BE CONVERTED INTO APPEAL AND MAY BE GRACIOUSLY ACCEPTED, BY SETTING ASIDE IMPUGNED JUDGEMENT/ORDER DATED 30.05.2012 PASSED BY DIVISIONAL BENCH CHIEF COURT AND THE IMPUGNED JUDGMENT /ORDER DATED 03.05.2000 AND 20.06.1989 PASSED BY DISTRICT COURT DIAMER AT CHILAS CAMP GILGIT AND CIVIL COURT GILGIT RESPECTIVELY AND OBJECTION PETITION OF THE PETITIONERS/OBJECTORS MAY KINDLY BE ACCEPTED TO MEET THE ENDS OF JUSTICE.

PRESENT:-

1. Mr. Javed Iqbal Advocate for the petitioners.
2. Mr. Muhammad Issa Senior Advocate alongwith Mr. Muhammad Hussain Shahzad advocate on behalf of the respondents.

DATE OF HEARING: - 21-10-2015.

JUDGMENT.

Dr. Rana Muhammad Shamim, Chief Judge..... This

petition for leave to appeal has been filed by the petitioners calling

in question the impugned Judgment dated 30.05.2012, passed by the learned Chief Court Gilgit-Baltistan in Civil Revision No. 42/2000. The brief history of the case is that in the year 1986, the present petitioners filed a suit bearing No. 67-A Gupis before the learned Civil Judge Gupis against the order of Assistant Commissioner Gupis with the plea that in the year 1965 the respondent No.01 9 (Shah Jahan S/o Muhammad Yaqoob) had purchased half of the land of one molvi Muhammad Zameen at the sum of Rs. 12000/- (Rupees twelve thousand). The said land was allotted to Molvi Muhammad Zameen by the then Revenue authorities. Later on in the year 1979, the remaining part of the land was also purchased by the present respondent No.01 from its owner i.e. Molvi Muhammad Zameen again at the cost of Rs.12000/- but the present petitioners were claiming that the said land is Khalisa-e-Sarkar. It was neither the land of Molvi Muhammad Zameen nor belonging to the present respondents. Upon hearing the learned Civil Judge Gupis dismissed the civil Suit of the petitioners declaring it not maintainable and baseless. Whereafter, the series of litigations emergent between the present petitioners and respondents. The judgment dated 20.06.1989 of the learned civil Judge Gupis in Civil Suit No. 67/88 was upheld by the learned District Judge as well as by the learned Chief Court Gilgit-Baltistan, hence this Petition for leave to appeal before this Court against the three concurrent findings of the Courts below. We at the preliminary hearing issued notices to the

respondents in the interest of justice and it was fixed for today for final arguments.

The learned counsel for the petitioners contended that on 03.12.1984 the petitioners filed an application before the Assistant Collector/Tehsildar Gupis District Ghizer for restraining the respondents as they were interfering in the land of the petitioners. The learned Assistant Commissioner upon hearing both the parties dismissed the application of the petitioner and the declared the disputed land as Khalisa-e-sarkar and ordered both the parties for not improving/occupy the said land vide his order dated 17. 04.1986.

The petitioners feeling aggrieved by and dissatisfied with the above order dated 17.04.1986 of the learned Assistant Collector/Tehsildar challenged the said order before the District Collector Ghizer but the appeal of the petitioners was got the same fate and the decision of the Assistant Collector /Tehsildar was upheld vide order dated 06.08.1986 however the parties were directed to file application to claim title under Nautore Rules.

Feeling aggrieved by and dissatisfied with the order dated 06.08.1986 passed by the learned Collector District Ghizer filed Civil Revision No. 42 and the present respondents filed a civil suit on 27.07.1985 in the Court of learned Civil Judge Gupis for permanent injunction, wherein, the present respondents did not impleaded the present petitioners malafidely and intentionally and the respondents got partial relief without impleading the present

petitioners as necessary party in the said suit against the law and procedure. The respondents in the garb of ex-parte decree tried to overtake the land of the petitioners. Thereafter, the petitioners filed Objection Petition under Order 21 Rule 99 CPC read with Section 151 CPC against the respondents No.01 to 03 while the District Collector was also impleaded as respondent.

The learned Civil Judge Gupis vide order dated 20.06.1989, after framing issued and hearing the respective parties dismissed the suit of the petitioners ignoring the issue No.05 hence, the same was liable to be set aside. The present petitioners challenged the impugned order of the learned civil Judge before the District Judge but unfortunately, the learned District Judge instead of setting aside the impugned Judgment of the learned Civil Judge maintained its Judgment dated 24.04.1995. The present petitioners feeling aggrieved by and dissatisfied with the Judgment dated 24.04.1995 filed Civil Revision No. 42/2000 before the learned Chief Court Gilgit-Baltistan. The learned Chief Court Gilgit-Baltistan vide order dated 30.05.2012 again dismissed the appeal of the petitioners/objectors while maintaining both the impugned Judgments of the Court below. The learned counsel for the petitioner contended that concurrent findings of all the three Courts below are the result of misreading and none-appreciation of the material evidence on record hence not tenable in law.

On the other hand, the learned counsel for the respondents contended that the learned courts below vide their Judgments dated i.e. 20.06.1989 passed by the learned Civil Judge Gupis and the Judgment dated 03.05.2000, passed by the learned District Judge Ghizer and the impugned Judgment dated 30.05.2012 passed by the learned Chief Court Gilgit-Baltistan are in accordance with law based on facts and evidence. The petitioners have not produced any iota of evidence in favour of their claim and they themselves admitted that the disputed land is Khalisa-e-Sarkar and even they did not challenge the order of the Assistant Commissioner before the higher forum i.e. the District Collector of the respective District and after passing Judgment by the learned Civil Judge filed an application under Order 21 Rule 99 read with Section 151 CPC against the respondents which depicts nothing on their side but a free will and futile exercise of litigations. They have no evidence regarding title of the said land with them and filed application on the basis of hearsay which has no evidential value in the eyes of law and justice, hence, their petition for leave to appeal has requires to be dismissed being meritless and baseless. The learned Courts below have rightly and correctly dismissed their case. The learned counsel for the petitioners did not point out any illegality and infirmity in the Impugned Judgment dated 30.05.2012 as well as the Judgment dated 03.05.2000 passed by the learned District Judge and the Judgment passed by the learned Civil Judge Gupis on 20.06.1989.

He finally contended that the Judgments passed all the three Courts below are well reasoned and well founded based on the facts and evidence and no interference is warranted. He also submits that the provisions of Order 21 Rule 99 is not applicable in the case in hand at all as the petitioners are not stakeholders of the disputed property as the property in question is either Khalisa-e-Sarkar or it's the land of the respondents which has been proved by adducing evidence on record.

We have heard the learned counsel for both respective parties, perused the record of the case file and gone through the Judgments of the three Court below. In our considered view no illegality and infirmity has been pointed out by the learned counsel for the petitioners. The petition is converted into an appeal and the same is dismissed. The impugned judgment passed by the learned Chief Court Gilgit-Baltistan on 30.05.2012, as well as the Judgments passed by both the learned Court below i.e. 03.05.2000, by the learned District Judge Ghizer and Judgment of the learned Civil Judge Gupis on 20.06.1989 are maintained.

These are the reason for the short order dated 21.10.2015.

The appeal is dismissed.

Chief Judge.

Judge.