

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

Before:-

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

Mr. Justice Jalal Ud Din, Judge

Mr. Justice Muzaffar Ali, Judge.

**Civil Appeal No.04/2014 in
CPLA NO.15/2014.**

1. **The** Registrar Co-operative Society Gilgit-Baltistan.
2. The General Manager Co-operative Bank Head office Gilgit.
3. The Manager Co-operative Bank Sumayar Branch, Nagar.
4. The Assistant Manager Co-operative Bank Branch, Nagar.

PETITIONER/DEFENDANTS.

VERSUS

1. Ghulam Abbas s/o Muhammad Shafi R/o Tal Gulmit
Nagar Tehsil Skindarabad, District Hunza/Nagar.

RESPONDENT/APPELLANT/PLAINTIFF.

PETITION FOR LEAVE TO APPEAL U/A 60 OF GILGIT-BALTISTAN (EMPOWERMENT & SELF GOVERNANCE) ORDER 2009 AGAINST THE JUDGMENT ORDER PASSED BY LEARNED CHIEF COURT GILGIT BALTISTAN DATED 15-05-2013 IN C.F.A NO.46/12, WHEREBY THE LEARNED CHIEF COURT ACCEPTED THE APPEAL OF THE RESPONDENT/PLAINTIFF IN ABSENCE OF THE PETITIONERS/RESPONDENTS AND REMANDED THE CASE BACK TO TRIAL COURT.

BY CONVERTING THIS PETITION FOR LEAVE TO APPEAL INTO APPEAL AND ACCEPTING THE APPEAL THIS HON'BLE COURT MAY BE PLEASED TO SET ASIDE THE IMPUGNED JUDGMENT/ORDER PASSED BY LEARNED CHIEF COURT DATED 15-05-2013 IN C.F.A NO. 46/2012 AND MAINTAIN THE JUDGMENT/ORDER DATED 05-10-2012 OF THE CIVIL JUDGE 1ST CLASS NAGAR PASSED IN CIVIL SUIT NO.14/12 TO MEET THE ENDS OF JUSTICE, LAW AND EQUITY.

PRESENT:-

1. Mr. Ali Khan advocate along with Mr. Ali Nazar Khan
AOR for the petitioner.
2. Mr. Johar Ali Khan Advocate on behalf of Respondent.

DATE of HEARING: - 16-10-2015.

Date of Detail Judgment: - 02.11.2015.

JUDGMENT

Dr. Rana Muhammad Shamim, CJ..... This petition has been filed by the learned counsel for the petitioner calling in question the impugned judgment dated: 15-05-2013 passed by the learned Chief Court, Gilgit-Baltistan in Civil First Appeal No.46/2012. Wherein, the learned Chief Court was pleased to accept the appeal of the appellant/plaintiff while setting aside the impugned judgment dated: 05-10-2012 passed by the learned Civil Judge 1st Class Nagar, who rejected the suit of the plaintiff being not maintainable holding that in view of Section 9 CPC and Section 70-A, Co-operative Societies Act 1925. The learned Civil Court Nagar has no jurisdiction to entertain the matter in question by allowing the application under Order 07 Rule 11 of the petitioner bank. The learned Civil Judge through its judgment dated: 05-10-2012 dismissed the suit of the plaintiff declaring the same not maintainable. The said suit was filed by respondent for declaration and perpetual injunction on 06-03-2012. The present petitioner filed an application under Order 6 rule 17 CPC, which upon hearing was accepted by the learned trial court Nagar on the ground that the respondent obtained bank loan from the petitioner but he failed to return the same amounting Rs. 27, 55,503/- hence it attracts the provisions of Section 54, 70, 70-A of Co-operative Societies Act 1925. He further submits that the Registrar Co-operative Societies has the jurisdiction to entertain the case as the same pertaining to

recovery of financial loans. The leave to appeal was granted by this court on 30-04-2014 and today the case was finally heard.

The learned counsel for the petitioner submitted that respondent/plaintiff obtained bank loan from petitioner and failed to return the loan along with interest thereon. On failure of respondent to repay the loan, the petitioners No.02 & 03 filed case of recovery before the learned Registrar. Despite receipt of notices, the respondent chose not to appear before the petitioner No.01. On the contrary, the respondent filed civil suit against petitioners for declaration & perpetual injunction. The petitioners, however, filed applications under Order 7 Rule 11 C.P.C, in the learned trial Court for rejection of the plaint on the ground that under sections, 54, 70, 74-A Co-operative Societies Act, 1925 and Section 9, C.P.C, the Civil Court has no jurisdiction to entertain cases against Registrar Co-Operative Societies and Co-operative Banks in the cases/disputes pertaining to the business of the Society. The learned trial court after hearing the parties rejected/dismissed the plaint/suit of the respondent/plaintiff. The respondent/plaintiff being aggrieved by the said order dated 05.10.2012 filed Civil First Appeal No.46/12 before learned Chief Court Gilgit Baltistan, who upon hearing both the parties, accepted the appeal vide order dated 15.05.2013 and remanded the case to Trial Court in absence of the petitioners,

hence this petition for leave to appeal before this Apex Court with the prayer that the said impugned judgment dated 15-05-2013 be set aside as the same was passed on the basis of misconception of law. He further contended that the learned Chief Court, Gilgit-Baltistan misunderstood the relevant provisions of law and the basic principle of justice while passing the impugned judgment, hence, liable to set aside whereas the order dated: 05-10-2012, passed by the learned Civil Judge Nagar be maintained being well reasoned and well founded.

On the other hand, the learned counsel for the respondent supported that the impugned judgment dated 15.05.2013, passed by the learned Division Bench of Chief Court, Gilgit-Baltistan in CFA No.46/2012 and submits that the same be upheld whereas the judgment dated: 05.10.2012, passed by the learned Civil Judge 1st Class Nagar was not maintainable being baseless and meritless and the same be set aside.

We have heard the learned counsel for the respective parties at length, perused the record of the case file and gone through the Impugned Judgment dated 15.05.2013, passed by the learned Chief Court, Gilgit-Baltistan in CFA No.46/2012, as well as the Judgment/decreed dated 05-10-2012, passed by the learned Trial Court Nagar. In our considered view the judgment of the learned Trial Court is well

reasoned and well founded. No infirmity and illegality has been pointed out by the learned counsel for the respondent. Consequently, the Judgment/decreed dated 05.10.2012, passed by the learned Civil Judge Nagar is upheld and the Impugned Judgment dated 15-05-2013, passed by the learned Chief Court, Gilgit-Baltistan in CFA No.46/2012, is set aside. Consequently, the appeal was allowed by our short order dated 16.10.2015 and these are the reasons for the same.

The appeal is allowed.

Chief Judge.

Judge.

Judge.

Whether the case is FIT to be reported or NOT?