

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT
LARKANA**

*Civil Revision Application No.S-107 of 2024
(Mumtaz Ali Vs. Nazir Ahmed & others)*

Applicant : Mumtaz Ali Kalhoro, *through* M/s. Aijaz Ali Kalhoro & Abdul Rehman A. Bhutto, Advocates.

Respondents : Nazir Ahmed Halepoto and others (Nemo)

Date of Hearing : 22.09.2025.

Date of Decision : 22.09.2025.

JUDGMENT

Ali Haider 'Ada'.J:- Through this Civil Revision Application, the applicant has impugned the concurrent findings/orders of the learned trial Court, dated 28.03.2023, and the learned Appellate Court, dated 25.06.2024, whereby the suit of the applicant was dismissed till appellate forum.

2. Brief and precise facts, as per applicant are that the Applicant, Mumtaz Ali, is the subsequent owner of the property in question, having purchased the same from Nazir Ahmed (Respondent No.1), who in turn had acquired it from Abdul Qayoom (Respondent No.2). Abdul Qayoom had earlier purchased the property from Abdul Hussain Shah, the original owner. The Applicant is aggrieved by the order dated 14.12.2021, passed by the Deputy Commissioner/Collector, Kamber Shahdadkot @ Kamber, in appellate jurisdiction under Section 161 of the Sindh Land Revenue Act, 1967. The placement of the entire chain of ownership on record is essential, as Respondent No.4, Arbab, filed an appeal challenging the mutation in favor of Abdul Hussain Shah. The order was passed against Abdul Hussain Shah, from whom the title was subsequently transferred through transactions, ultimately culminating in the Applicant's ownership.

3. During perusal of the record, it has come to light that the impugned order was passed in appeal under Section 161 of the Sindh Land Revenue Act, 1967. The statutory mechanism of the said Act provides a further remedy under Section 164; however, the Applicant did not avail this remedy. Instead,

a civil suit was filed, which was dismissed. Thereafter, an appeal was preferred against the verdict of the Civil Court, but the Appellate Court upheld the findings of the trial Court. Consequently, the Applicant has filed the present Civil Revision Application, assailing the entire mechanism and proceedings under the scope of Section 115 of the Code of Civil Procedure.

4. In this respect, the learned counsel for the Applicant contends that, due to the issue of limitation, the Applicant opted to file a civil suit instead of a revenue revision under the Sindh Land Revenue Act, in order to preserve his claim within the limitation period. He further submits that the Applicant, being the subsequent purchaser, holds a registered document, and such registered ownership cannot be cancelled or set aside by the revenue authorities acting under their limited jurisdiction. In support of his arguments, learned counsel has placed reliance on the cases reported as PLD 1997 Supreme Court 3 and 2023 CLC 663.

5. Heard the arguments of the learned counsel for the applicant, perused the material available on record, and examined the relevant provisions of law.

6. First of all, to properly ascertain the matter, the facts are relevant: Respondent No.4 filed an appeal before the revenue hierarchy, namely the Deputy Commissioner, against the mutation. The said appeal was allowed by the Deputy Commissioner under Section 161 of the Sindh Land Revenue Act, 1967. The Applicant, instead of availing the remedy of revision provided under the same Act, challenged the order of appeal before the Civil Court. It is pertinent to note that the Applicant filed the civil suit solely on the ground of limitation, intending to circumvent the prescribed limitation period for filing a revenue revision. The trial court dismissed the suit, and the subsequent appeal filed by the Applicant was also dismissed, with the appellate court upholding the verdict of the trial court. For clarity and reference, **Section 164 of the Sindh Land Revenue Act, 1967**, which provides the remedy of revision against orders passed by the subordinate revenue authorities, is reproduced herein below for ready reference:

164. Revision.- (1) *The Board of Revenue, may, at any time, on its own motion, or on an application made to it within thirty days of the passing of any order, call for the record of any case pending before, or disposed of by, any Revenue Officer subordinate to it.*

(2) *A Commissioner or Collector may, at, any time, of his own motion or on an application made to him within thirty days of the*

passing of any order, call for the record of any case pending before, or disposed of by, any Revenue Officer under his control.

(3) If in any case in which a Collector has called for a record he is of opinion that proceedings taken or order made should be modified or reversed, he shall report the case with his opinion thereon for the orders of the Commissioner.

(4) The Board of Revenue may, in any case called for under section (1) and a Commissioner may, in any case called for under subsection (2) or reported to him under subsection (3), pass such orders as it or he thinks fit:

Provided that no order shall be passed under this section reversing or modifying any proceedings or order of a subordinate Revenue Officer affecting any person without giving such person an opportunity of being heard.

Provided further that any order passed in revision under this section shall not be called in question on an application of the party affected by such order;

Provided also that no Revenue Officer other than the Board of Revenue shall have power to remand any case to a lower authority.

7. The plea raised by the learned counsel for the Applicant that the civil suit was filed merely to avoid the point of limitation and that the Applicant did not file a revenue revision is misconceived. This is because the law provides a remedy under Section 167 of the Sindh Land Revenue Act, 1967, whereby the period of limitation can be condoned or extended if sufficient cause is shown. For ready reference, **Section 167 of the Sindh Land Revenue Act, 1967** is reproduced hereunder:

167. Computation of Period Limited under this Chapter:- *In the computation of the period for, or condonation in filing of, an appeal or an application for revision of, an order under this Act, the limitation therefor shall be governed by the provisions of the limitation Act, 1908 (Act IX of 1908).*

8. This provision empowers the competent authority to admit an application or revision beyond the prescribed period if sufficient cause for the delay is demonstrated. Therefore, the Applicant had a statutory remedy available to him in the form of a revenue revision with the benefit of condonation of delay, which he failed to avail. The object and purpose of Section 167 is to ensure that question of limitation do not deprive a party of his lawful rights when genuine reasons for delay exist. Consequently, the filing of a civil suit in place of the prescribed remedy under the Land Revenue Act, particularly to overcome the limitation bar, is not only inappropriate but also against the legislative mandate.

9. It is a well-established principle in law that jurisdiction is a primary element of a Court, inherently linked to its authority to hear and decide a matter. In other words, if a Court does not possess jurisdiction over a particular dispute or subject matter by virtue of law, the parties cannot confer such jurisdiction. This principle finds support in the case of *Messrs Sprint Oil and Gas Services Pakistan FZC Islamabad vs Oil and Gas Development Company Limited (OGDCL) Islamabad* (2024 SCMR 117). Similarly, in case of *Eden Builders Pvt. Ltd. Lahore v. Muhammad Aslam* (2022 SCMR 2044).

10. As far as the jurisdiction of Civil Courts is concerned, they generally possess the authority to try all suits of a civil nature, except in cases where their cognizance is either expressly or impliedly barred by law. Furthermore, if a specific remedy is provided under any statute for a particular dispute, the civil courts may be precluded from hearing such cases. This principle ensures that civil courts do not encroach upon matters exclusively reserved for specialized forums or alternate dispute resolution mechanisms established by law. The legal foundation for this jurisdictional scope is enshrined in **Section 9 of the Civil Procedure Code**, which states:

9. Courts to try all civil suits unless barred.- The Courts shall (subject to the provisions herein contained) have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred [or for which a general or a special law is in force].

Explanation.- A suit in which the right to property or to an office is contested is a suit of a civil nature, notwithstanding that such right may depend entirely on the decision of questions as to religious rites or ceremonies.

11. This provision underlines the general competence of civil courts to adjudicate civil suits, subject to any statutory exclusions or the existence of alternative remedies. It forms a cornerstone of civil procedural law by guiding the proper forum for the trial of civil disputes. Where a statute or law prescribes a special remedy to be pursued before a designated authority, such remedy must be exhausted before resorting to the Civil Courts. Directly approaching the Civil Courts without first availing the prescribed remedy undermines the procedural framework intended by the legislature and is generally impermissible. Similarly, in the case of *Muhammad Siddique (Deceased) through LRs and others vs. Mst. Noor Bibi (Deceased) through LRs and others* (2020 SCMR 483), it was held that:

6. There are concurrent findings of fact of the two learned Courts below. We have observed that there are further defects in the

*Suit whereby the orders of the revenue hierarchy i.e. the Assistant Commissioner and the Additional Commissioner were challenged in the Suit. In our view, orders of the Assistant Commissioner as well as the Additional Commissioner were liable to be challenged before the Board of Revenue, Punjab; therefore, a Suit before the Civil Court was not competent before exhausting the available remedy under the law. It is a settled principle of law that where a special remedy is provided for under the law, it may not be bypassed and the Civil Courts should not be approached directly without exhausting the highest forum in the authority. Reference may be made to the judgment reported as *Hakam and others v. Tassadaq Hussain Shah* (PLD 2007 Lahore 261), *Zahid Hussain and 10 others v. Shamasuddin and 9 others* (2014 CLC 1334) and *Muhammad Jalat Khan v. Faisal Hayat Khan and 4 others* (2003 CLC 837). Furthermore, the jurisdiction of Civil Courts is also impliedly barred where an alternate remedy has been provided under the law, provided that the authority was not exercised in excess of the jurisdiction conferred upon the authority. Reference in this regard may be made upon the judgment of this Court reported as *Bashir Ahmed v. Messrs Muhammad Saleem, Muhammad Siddique & CO. (REGD) and others* (2008 SCMR 1272).*

12. Moreover, the appellant failed to furnish any plausible justification for bypassing the complete revenue hierarchy and directly instituting the suit before the Civil Court. More significantly, such a suit is barred under **Section 11 of the Sindh Revenue Jurisdiction Act, 1876**, which explicitly prohibits civil courts from entertaining matters that fall within the exclusive domain of revenue authorities. The relevant provision reads as follows:

Section 11. Suits not to be entertained unless plaintiff has exhausted right of appeal. *No. Civil Court shall entertain any suit 1[against the Government] on account of any act or omission of any act or omission of any Revenue-officer unless the plaintiff first proves that, previously to bringing his suit, he has presented all such appeals allowed by the law for the time being in force as, within the period of limitation allowed for bringing such suit, it was possible to present.*

This statutory bar is not merely procedural but jurisdictional in nature, and it operates to oust the civil court's jurisdiction in all matters where the law confers authority upon revenue functionaries.

13. If the law mandates that a particular act be performed in a specific manner, it must be carried out accordingly; any deviation would result in non-compliance with the legislative intent. This principle is supported by the case of *Secretary, Ministry of Finance, Finance Division, Government of Pakistan and others vs. Muhammad Anwar* (2025 SCMR 153). Likewise, in *Jeehand vs. The State* (2025 SCMR 923), the Honourable Apex Court further elaborated on this principle, invoking a Latin maxim to emphasize the necessity of strict adherence to prescribed legal procedures: *Communi*

observantia non set recedendum- When law requires a thing to be done in a particular manner, the same must be done accordingly and if prescribed procedure is not followed, it would be presumed that the same had not been done in accordance with law.

14. After careful consideration of the foregoing reasons and the discussion hereinabove, this Civil Revision is found to be devoid of merit and barred for want of jurisdiction. There is no justification for interference in the decisions of the learned trial court and appellate court. Consequently, the instant Civil Revision Application is hereby dismissed. However, learned counsel, after extended arguments, submits that directions may be issued regarding the invocation of the remedy available under the revenue hierarchy. It is well settled that no person can be restrained from asserting his legal rights if a remedy is provided by law. In light of this, the applicant remains at liberty to initiate any appropriate legal proceedings before the competent forum that safeguards his legal rights, subject to the availability and exhaustion of the remedy prescribed under the law.

JUDGE