IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Second Civil Appeal No. S-04 of 2015

Appellants	:	Aftab Ahmed and others *through* Mr. Ghulam Dastagir A. Shahani, Advocate.
Respondents	:	Habibullah and others *through* Mr. Atta Hussain Chandio, Advocate, and Mr. Abdul Waris Bhutto, Assistant Advocate General, Sindh.
Date of Hearing	:	12.09.2025.
Date of Decision	:	12.09.2025.
Date of Reasons	:	19.09.2025.

JUDGMENT

Ali Haider 'Ada'.J:- Through this Second Appeal, the appellants have assailed the judgment and decree dated 28.01.2015, passed by the Additional District Judge-II, Dadu (Appellate Court), whereby the appeal filed by Respondent No.1, namely Habibullah, was allowed. Consequently, the judgment and decree of the Senior Civil Judge, K.N. Shah (Trial Court) was set aside, and the suit of Respondent No.1 was decreed in his favour. The appellants, who were defendants before both the trial court and the appellate court, have now challenged the validity of the impugned judgment of the appellate court on the ground that there exists a conflict between the judgments of the learned courts below.

2. The Respondent No.1, Habibullah, filed a civil suit before the learned trial court, claiming entitlement to inheritance in agricultural land originally owned by Abdul Hayee, who passed away in 1960. The lands in question are located in Deh Thariri Muhabat (Survey Nos. 653, 654, 541, total area 7-10 acres) and Deh Paterji, Taluka Mehar (Survey Nos. 86, 111, total area 6-38 acres), collectively referred to as the lands in question. According to Habibullah, the deceased Abdul Hayee left behind the legal heirs including Habibullah (Plaintiff/Respondent No.1), Hizbullah (father of present appellants), Mst. Inayat Khatoon, Mst. Aziman, Mst. Mehnas (mother of Habibullah and widow of Abdul Hayee). It was further stated that Abdul Hayee contracted two marriages, from first wife Mst. Sain (who predeceased

him), he had Hizbullah and Inayat Khatoon. From second wife Mst. Mehnas, he had Habibullah and Aziman. Habibullah claimed that, following Abdul Hayee's death, the record of rights was mutated only in the names of Hizbullah, Habibullah, and Mst. Inayat Khatoon, while the names of Mst. Mehnas and Mst. Aziman were excluded. He alleged that Hizbullah, in collusion with others, deliberately omitted their names, despite them being rightful legal heirs.

3. Subsequently, Hizbullah sold portions of the land to third parties by executing registered sale deeds pertaining to his share. These subsequent purchasers were also impleaded as defendants in the suit. In the civil suit, Habibullah prayed for Cancellation of the impugned mutation entry, which reflected only three heirs instead of five; Inclusion of all five legal heirs in the record of rights; Cancellation of the registered sale deeds executed by Hizbullah party; Possession of his share in the lands in question.

4. The defense (present appellants), being legal successors of Hizbullah, argued that Mst. Mehnas and Mst. Aziman had predeceased Abdul Hayee, similar to his first wife Mst. Sain, and therefore, were not entitled to inherit. They further claimed that a Jalsa aam/public hearing was held by the Mukhtiarkar, following which an inquiry was conducted and only the names of Habibullah, Hizbullah, and Mst. Inayat Khatoon were rightly recorded as legal heirs in the record of rights.

5. Thereafter, the learned trial court, after completion of service of summons and filing of written statements by the defendants, framed the following issues::

a. *Whether the registered sale deed dated 05.09.2007 in favour of defendant No.14 registered sale deed dated 10.07.2001 in favour of defendant No.19 and registered sale deed No.1317 dated 23.12.2005 are illegal, void, and against the principle of natural justice, hence same are liable to be cancelled so also entries thereto?*

b. *Whether the registered sale deed dated 23.06.2009 and registered sale deed No. 213 dated 10.02.2010 executed during the pendency of suit, hence unlawful and is liable to be cancelled?*

c. *Whether the Foti Khata of Abdul Hayee Jhatial (original owner) changed in favour of only three legal heirs instead of five legal heirs is illegal, wrong and clear violation of section 42 of Sindh Land Revenue Act, 1967?*

d. *Whether the plaintiff is entitled to get joint possession of suit land?*

e. Whether the defendant No.14 is legal and lawful owner of the suit land and plaintiff has no concern whatever with the suit land?

f. Whether the suit of plaintiff is barred by any law?

g. Whether the plaintiff is entitled for the relief as claimed

h. What should the decree be?

6. After the framing of issues, both parties led their respective evidence. During the course of evidence, Respondent No.1 / Plaintiff produced death certificates of Mst. Mehnas and Mst. Aziman, issued by the Naib Nazim, Union Council Thariri Muhabat, dated 20.01.2009. These certificates were purportedly issued on the basis of statements given by Abdul Sattar and Mir Muhammad, stating that Mst. Mehnas died on 03.02.1965 and Mst. Aziman died on 05.06.1962, both after the death of Abdul Hayee. Respondent No.1 also supported this claim through oral testimony. On the other hand, the defendants (present appellants) vehemently opposed the said death certificates, raising objections that the documents were procured subsequently with mala fide intentions and expressed on them as false, fabricated, and frivolous in nature.

7. After completion of evidence, the matter was heard by the learned trial court, which ultimately passed its judgment and decree dated 29.04.2014 against the Respondent No.1 / Plaintiff. The trial court held that Respondent No.1 had failed to establish that Mst. Mehnas and Mst. Aziman were alive at the time of Abdul Hayee's death, and further observed that the suit had been filed after a lapse of approximately 50 years, thereby creating serious doubt regarding the veracity of the claims.

8. The trial court decreed against the plaintiff, holding that the mutation was valid. However, on appeal, the Appellate Court reversed the trial court's judgment, decreed the suit in favour of Habibullah, and ordered correction of the record of rights, cancellation of mutation and sale deeds, and restoration of possession. This conflicting judgment of the appellate court, contrary to the trial court, is now under challenge through the present Second Appeal by the appellants.

9. Aggrieved by the said judgment, Respondent No.1 preferred an appeal before the learned appellate court, which, through its judgment and decree dated 28.01.2015, allowed the appeal. The appellate court set aside the findings of the trial court, cancelled the impugned mutation entry, and

directed that the names of all five legal heirs be entered in the record of rights instead of just three. Furthermore, the appellate court also cancelled all subsequent registered sale deeds executed in relation to the land in question. Being aggrieved and dissatisfied with the said judgment and decree of the appellate court, the appellants have filed the present Second Civil Appeal, challenging its legality and validity.

10. The learned counsel for the appellants submitted that the entire case of the respondent is primarily based on death certificates issued by the Naib Nazim of the concerned Union Council. It was strongly argued that, in the presence of a duly appointed Nazim, the Naib Nazim had no lawful authority to issue such death certificates. Moreover, said certificates were never properly proved through admissible evidence, as required under the law. It was further contended that the certificates were allegedly issued on the basis of statements made by two individuals, namely Abdul Sattar and Mir Muhammad. Although Abdul Sattar was examined as a witness during the trial, he did not make a single statement regarding the issuance of the said death certificates, nor did he confirm their contents or the basis of issuance. The learned counsel emphasized that despite these flaws, the learned appellate court based its entire judgment on the said unverified and legally questionable death certificates, and allowed the appeal. It was submitted that the impugned judgment and decree of the appellate court is contrary to law, as it ignores vital legal requirements related to the proof of official documents, and overlooks the fact that the suit was filed after an inordinate delay of 50 years. Additionally, the learned counsel brought to the court's attention that the respondent had filed a complaint under the Illegal Dispossession Act, which was dismissed, and in which the respondent took a contradictory stance compared to the present civil suit. This, it was argued, shows the mala fide intention of the respondent, who is attempting to usurp the appellants' lawful share in the property. In light of the above submissions, the learned counsel for the appellants prayed that the impugned judgment and decree dated 28.01.2015 passed by the learned appellate court be set aside, and the judgment and decree dated 29.04.2014 passed by the learned trial court be maintained.

11. On the other hand, the learned counsel for Respondent No.1 submitted that the death of Mst. Mehnas and Mst. Aziman after the demise of Abdul Hayee was not specifically denied by the appellants in their pleadings. He

argued that in the absence of a specific denial, the appellants are deemed to have admitted the fact, as per settled principles of pleadings. He further contended that at one stage, Hizbullah, predecessor of the appellants, filed an application for compromise, which, although declined by the court, reflects his intention to amicably resolve the dispute. However, the compromise could not materialize due to subsequent sale transactions and involvement of third parties. The counsel also argued that certain sale transactions were mutated without the appointment of a guardian, despite the involvement of legal heirs who were either minors or legally unrepresented at the relevant time, which is contrary to the law and renders such transactions invalid. It was further submitted that the burden of proof regarding the alleged prior deaths of Mst. Mehnas and Mst. Aziman (i.e., that they predeceased Abdul Hayee) squarely lay upon Hizbullah and the appellants, which they failed to discharge through cogent evidence. Regarding the Illegal Dispossession Act complaint, the learned counsel clarified that it was filed only in respect of one survey number, and has no bearing on the broader inheritance dispute forming the subject matter of the civil suit. The learned counsel also raised a procedural objection, stating that although the instant Second Civil Appeal was filed in 2015, the required court fee was not deposited until 2022, which is a gross violation of the procedural laws. He argued that such a delay renders the appeal not maintainable, especially when considered alongside the limited scope of a second appeal, which does not permit re-appreciation of evidence or interference with concurrent findings of fact. In support of his submissions, he placed reliance on the reported judgments: PLD 2015 Sindh 46, 2014 CLC 160, PLD 2018 Lahore 502. He, therefore, prayed for dismissal of the Second Civil Appeal, being not maintainable both on merits and procedural grounds.

12. The learned Assistant Advocate General (AAG) submitted that during the proceedings before the learned trial court, the official functionaries were declared ex parte, as no governmental interest was directly involved. He argued that the dispute is essentially a private, intra-family conflict, masked under the broader issue of ownership and inheritance of the agricultural land in question. On merits, the learned AAG contended that the death certificates, upon which Respondent No.1 / Plaintiff has entirely relied, appear to be afterthoughts, as they were prepared subsequent to the filing of the civil suit in 2008. This timing, according to the learned AAG, raises a strong possibility of manipulation, especially when these documents were created decades after the alleged deaths and were based merely on the statements of two private

individuals. He submitted that the learned appellate court validated these disputed documents, without due scrutiny of their authenticity or legal sufficiency. The learned AAG further pointed out that, under the applicable law at the relevant time namely the Sindh Local Government Ordinance, 2001, the Union Council indeed had the authority to issue birth and death certificates. However, he emphasized that such powers must be exercised fairly, transparently, and in accordance with the prescribed procedure. The issuance of official documents based solely on unverified oral statements of two individuals is not permissible under law, and undermines the credibility of the document and the process. He highlighted the common procedure prescribed for the issuance of death certificates, which includes the steps: Application by a close relative of the deceased, in the prescribed format, providing full details: Name of deceased, Date and place of death, Cause of death (if known), Place of burial, Documentary evidence must be submitted, such as hospital-issued death certificate (if applicable), Graveyard slip / burial record (e.g., Ghorkan's parchi), CNIC of the deceased, CNIC of the applicant, Statements of two reliable witnesses and to hold an enquiry, if required. The Union Council or Registration Office must verify the information and record the entry in the Death Register. In cases where registration is delayed beyond a certain time period, additional proof is required for late entry. Upon completion of verification, the death certificate may be issued and duly signed and sealed by the authorized officer (usually the Secretary or Registrar of the Union Council. The learned AAG argued that the procedure followed in the present case was grossly deficient, as no formal application or supporting documentary evidence was produced. The death certificates were not issued by the proper authority (i.e., the designated Registrar/Secretary). The statements of the alleged witnesses were not corroborated; one of them, when examined, did not even confirm the issuance or factual basis of the certificate. No inquiry or verification process was conducted. The certificates were issued almost five decades after the alleged deaths, raising serious legal and factual doubts about their authenticity. In light of these deficiencies, the learned AAG submitted that the appellate court erred in law by relying upon such disputed and unverified documents.

13. Heard the arguments and perused the material available on record with due care and caution.

14. The preliminary issue concerning the deficiency of court fee, as raised by the respondent's counsel, requires determination. In this regard, it is well-settled law that under Section 149 of the Code of Civil Procedure (CPC), the expression 'at any stage' denotes that any deficiency in the court fee can be ordered to be remedied by the appellate court at any stage of the appellate proceedings. The records further reveal that this Court has already granted an extension of time to the appellant for making good the deficiency. Therefore, mere deficiency of court fee, without more, cannot result in dismissal of the appeal or oust a party from seeking adjudication on merits. This position was reiterated by the Honourable Supreme Court in the case of ***Habib-ur-Rehman v. Abdul Karim*** **reported in 2025 SCMR 1262,** as held as under:

> *13. The provision for enlargement of time is assimilated under Section 148 C.P.C., which articulates that where any period is fixed or granted by the Court for the doing of any act prescribed or allowed by the C.P.C., the Court may, in its discretion from time to time, enlarge such period, even though the period originally fixed or granted may have expired. Whereas, Section 149 deals with the power to make up the deficiency of court fee and provides in a translucent stipulation that where the whole or any part of any fee prescribed for any document by the law for the time being in force relating to court fees has not been paid, the Court may, in its discretion, at any stage, allow the person, by whom such fee is payable, to pay the whole or part, as the case may be, of such court fee; and upon such payment, the document, in respect of which such fee is payable, shall have the same force and effect as if such fee had been paid in the first instance even without filing any application for extension of time. Section 149, C.P.C., is an exception to the command delineated under Sections 4 and 6 of the Court Fees Act, 1870. The exercise of discretion by the Court at any stage is, as a general rule, expected to be exercised in favour of the litigant on presenting plausible reasons which may include bona fide mistake in the calculation of the court fee; unavailability of the court fee stamps; or any other good cause or circumstances beyond control, for allowing time to make up the deficiency of court fee stamps on a case to case basis, and the said discretion can only be exercised where the Court is satisfied that sufficient grounds are made out for non-payment of the court fee in the first instance. The expression "at any stage" alluded to in Section 149 accentuates that the deficiency, if any, on account of court fee can be ordered to be made good by the Appellate Court at any stage of proceedings in appeal.*

15. Now, turning to the aspect of inheritance law, there is no dispute regarding the death of Abdul Hayee, the father of Hizbullah and Habibullah, both parties agreeing that he passed away in the year 1960. However, as far as the legal heirs are concerned, it is admitted by all parties that the family members of Abdul Hayee comprised Hizbullah (son), Mst. Inayat Khatoon (daughter), and Mst. Sain (first wife), as well as Habibullah (son), Mst. Aziman (daughter), and Mst. Mehnas (second wife). It is undisputed that Mst. Sain, the first wife, died during the lifetime of Abdul Hayee. However, the issue regarding the deaths of Mst. Aziman and Mst. Mehnas remains controversial. Habibullah contends that both Mst. Aziman and Mst. Mehnas

were alive at the time of Abdul Hayee's death, whereas the party of Hizbullah asserts the contrary, stating that both ladies predeceased Abdul Hayee. Subsequent to these events, the foti khata (record of rights) was revised by the Mukhtiarkar after a jalsa aam /public hearing and thorough investigation. Consequently, the record of rights was mutated in the names of three legal heirs, namely Hizbullah, Habibullah, and Mst. Inayat Khatoon, instead of five. This mutation reflects the actual legal status of heirs as per the inquiry and the prevailing facts, thereby excluding Mst. Aziman and Mst. Mehnas based on their predeceasing Abdul Hayee, as maintained by Hizbullah's party. In cases where the last owner of an estate has passed away, and during his lifetime both his wife and daughter predeceased him, the question arises whether the succession is open to their rights. At that point, the estate vests in all legal heirs who were in existence at the time of his death, who are thereby considered joint owners under the law of Shariah. Notwithstanding any local custom to the contrary, where a person dies subject to Islamic law, the succession to the estate being the subject matter of a limited interest shall be deemed to have opened as of the date of his death. Consequently, all legal heirs alive at the time of the decedent's death are entitled to inherit in accordance with the established rules of succession under Shariah law. This principle finds support in the Supreme Court of Pakistan's decision in **Muhammad Saleem Ullah and others v. Additional District Judge, Gujranwala and others**, **PLD 2005 Supreme Court 511.**

16. Now, coming to the aspect of whether Mst. Mehnas and Mst. Aziman died during the lifetime of the last owner, or whether they had predeceased their ancestor, it is pertinent to note that this specific issue was raised by Respondent No.1 in the suit. Therefore, in light of Article 117 of the Qanun-e-Shahadat Order, 1984, the burden of proof squarely lies upon the respondent, as the party asserting this fact. Article 117 clearly stipulates that the burden of proof lies on the person who asserts the existence of a fact in issue, and in the present case, it is for the respondent to establish, through cogent and convincing evidence, the exact timeline of the deaths of Mst. Mehnas and Mst. Aziman in relation to the death of the last owner. For ready reference, the same is read as under:

> *117. Burden of proof.– (1) Whoever desires any Court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts, must prove that those facts exist.*

(2) When a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person.

Illustrations

(a) A desired a Court to give Judgment that B shall be punished for a crime which A says B has committed.

A must prove that B has committed the crime.

(b) A desires a Court to give judgment that he is entitled to certain land in the possession of B by reason of facts which he asserts, and which B denies to be true.

A must prove the existence of those facts.

The phrase burden of proof carries two distinct meanings in legal parlance. First, it refers to the burden of proof as a matter of law and pleadings, the legal burden and second, it refers to the burden of adducing evidence, the evidential burden. The legal burden is determined based on the pleadings and remains fixed throughout the trial as a matter of law. In contrast, the evidential burden is not static; it may shift from one party to another during the course of the proceedings, particularly when a party produces sufficient evidence to raise a presumption in its favour. Accordingly, the legal burden continues to rest upon the plaintiffs throughout the trial. However, once the plaintiffs succeed in discharging their initial burden by producing prima facie evidence, the evidential burden then shifts to the defendants to rebut the presumption thus raised. It is important to note that the evidence required to shift the evidential burden need not be direct evidence (oral or documentary) or admissions made by the opposing party. It may consist of circumstantial evidence or presumptions of law or fact. In support of this principle, reliance is placed on the judgment rendered in ***Mst. Nazeeran and others v. Ali Bux and others*** **(2024 SCMR 1271).**

17. Moreover, Respondent No.1 has relied upon two documents, namely the alleged death certificates of Mst. Mehnas and Mst. Aziman, it is of paramount importance that these documents be duly proved in accordance with the law. Mere production of such documents is not sufficient unless they are proved through proper legal means. In this regard, Article 79 of the Qanun-e-Shahadat Order, 1984 is attracted, which mandates that documents required by law to be attested shall not be used as evidence unless at least one attesting witness is called to prove its execution, if such witness is alive and capable of giving evidence. Although the documents in question appear to be attested by the Naib Nazim and purportedly based on the statements of two

witnesses, the evidentiary requirement under Article 79 must still be fulfilled. The attestation by a public functionary or the recording of statements by others does not automatically dispense with the legal obligation to prove the documents through admissible evidence, particularly when their authenticity is disputed. Therefore, unless the attesting witnesses or other competent evidence is produced in accordance with Article 79, the said documents cannot be deemed to have been lawfully proved for the purpose of establishing the alleged deaths. For ready reference the said Article is reproduced as under:

> *79. Proof of execution of document required by law to be attested.– If a document is required by law to be attested, it shall not be used as evidence until two attesting witnesses of least have been called for the purpose of proving its execution, if there be two attesting witnesses alive, and subject to the process of the Court and capable of given evidence:*
>
> *Provided that it shall not be necessary to call an attesting witness in proof of the execution of any document, not being a will, which has been registered in accordance with the provisions of the Registration Act, 1908 (XVI of 1908), unless its execution by the person by whom it purports to have been executed is specifically denied.*

18. Now, coming to the present case, it is evident that the attesting authority namely, the Naib Nazim was not produced by Respondent No.1/plaintiff during the course of evidence. Furthermore, although it was claimed that the death certificates were issued on the basis of statements made by two witnesses, only one witness, namely Abdul Sattar, was produced. However, in his entire deposition, Abdul Sattar did not make any reference to the issuance of the death certificates. He failed to disclose who recorded his statement, under what application the statement was made, or whether the statement was formally recorded before the Naib Nazim. Most importantly, he did not exhibit any such statement as part of his evidence. In view of these material omissions, the requirements laid down under Article 79 of the Qanun-e-Shahadat Order, 1984 were not fulfilled. As the documents in question are of a nature that requires attestation, and no attesting witness or competent evidence was produced to prove their execution in accordance with law, these death certificates cannot be treated as having been duly proved. Consequently, such documents cannot be sustained in evidence when the basic requirements of admissibility under Article 79 have not been met. A document that creates future obligations and confers rights upon parties, when challenged, is required to be proved strictly in accordance with the law. Under the mandate of Article 79 of the Qanun-e-Shahadat Order, 1984, any

such document, which by law requires attestation, must be proved by the testimony of at least two marginal witnesses. This evidentiary requirement is mandatory and cannot be dispensed with when the execution of the document is specifically denied or put into question and even none of the marginal witnesses were produced in the witness box to identify their signatures or to verify the execution of the document. In support of the above legal proposition, reliance is placed on the judgment reported as **PLD 2025 Supreme Court 502**, *titled* ***Hidayat Khan and others v. Mst. Nasreen and others.***

19. Now, addressing the question of the authority and empowerment of the official who issued the alleged death certificates, it is pertinent to note that the said certificates were issued by the Naib Nazim, rather than the Nazim. The certificates in question are dated in the year 2009, and therefore fall within the period when the Sindh Local Government Ordinance, 2001 was in force. Under the said legal framework, the Union Administration was constituted as a tier of local government functioning under the umbrella of the Union Council. The structure and functions of the Union Administration were defined under Sections 74 and 75 of the Ordinance. For ease of reference and to further elaborate upon the scope of authority under the said law, the relevant provisions are reproduced as under:

> *74. Composition of Union Administration.- There shall be constituted a Union Administration for every Union which shall be a body corporate and consist of Union Nazim, Naib Union Nazim and not more than three Union Secretaries and, where required, the members of ancillary staff.*
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> *75. Structure of Union Administration.- (1) The Union Nazim shall be the head of the Union Administration.*
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> *(2) The Naib Union Nazim shall deputise the Union Nazim during his temporary absence.*
>
> *(3) The Union Secretaries shall coordinate and facilitate in community development, functioning of the Union Committees and delivery of municipal services under the supervision of Union Nazim:*
>
> *Provided that functions of the Union may be assigned to one or more secretaries.*
>
> *(4) The Union Nazim may declare one of the Secretaries of the Union Administration to act as the Principal Accounting Officer of the Union Administration.*

20. A bare reading of the above provisions makes it clear that while the Union Administration is responsible for maintaining death records, no specific

independent authority was conferred upon the Naib Nazim to issue or certifies death certificates. The Nazim, as the head of the Union Administration, held the executive authority, whereas the Naib Nazim's role was largely limited to presiding over meetings of the Union Council in the absence of the Nazim, and did not extend to the issuance of official documents of such legal significance in presence of Nazim. Therefore, the issuance of the death certificates by the Naib Nazim, without lawful authority or delegation of powers from the competent official (i.e., the Nazim), raises serious questions regarding the validity, authenticity, and legal sanctity of such documents. Furthermore, to properly assess the scope of authority in relation to the issuance of death certificates, it is essential to refer to Section 76(d) of the Sindh Local Government Ordinance, 2001, read with the Second Schedule thereto. These provisions directly govern the functions and fee structures relating to the registration and certification of vital events such as births, marriages, and deaths.

> *76. Functions of the Union Administration.- The functions of Union Administration shall be-*
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> *----*
>
> *(d) to register births, deaths and marriages and issue certificates thereof;*
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> *----*

21. This clearly reflects that the function of registering and certifying deaths was a structured responsibility of the Union Administration, and was to be carried out in accordance with the prescribed procedure and upon payment of fees under the Second Schedule. What is crucial here is that Section 76(d) vests the Union Administration with the responsibility to register and issue certificates not an individual officer in isolation. The process is inherently administrative, governed by rules and fee schedules, and must be performed by the competent authority designated under the Ordinance generally, the Union Council Office through its Nazim and Secretarial Staff, and not the Naib Nazim acting independently. In the present case, the issuance of death certificates by the Naib Nazim, without any legal proof of delegation of authority, procedural compliance, or record of fee collection as prescribed under the Second Schedule, renders such certificates legally questionable and procedurally defective.

22. Furthermore, in the present case, no witness deposed that the prescribed fee for the issuance of the death certificates was ever deposited, nor

was any receipt or challan produced in evidence to show compliance with the statutory requirement under the Second Schedule of the Sindh Local Government Ordinance, 2001. As rightly pointed out by the learned Assistant Advocate General, there exists a standard procedure for the issuance of such certificates, particularly in cases of delayed deaths. The normal practice involves submission of a formal application, along with supporting documents such as the receipt from the graveyard or other credible proof of burial. Furthermore, a local inquiry or verification from the vicinity or community members is generally conducted to confirm the occurrence and details of the death. However, in the present case, none of these procedural safeguards were observed. Issuing sensitive public documents like death certificates in such a casual and hasty manner, without adhering to the procedural formalities, raises serious doubts about their authenticity and legal sanctity.

23. It is worth noting that the record of rights is required to be mutated only after a proper enquiry and a public gathering (*Jalsa Aam*) conducted under the supervision of the Mukhtiarkar, in accordance with the relevant land revenue laws. In the present case, as per the official record, the mutation entries were made after the death of Abdul Hayee, who admittedly passed away in the year 1960. Despite this, no claim was raised by Respondent No.1 or any of his representatives asserting any right or interest in the property for several decades. If the plea taken by Respondent No.1 is that he was a minor at the time of Abdul Hayee's death, it remains unexplained why he remained silent for such an extended period after attaining majority. He also failed to lead any cogent or convincing evidence to justify the delay. There is no material on record to establish that he was unaware of the mutation proceedings or dispossession. Furthermore, when examined another litigation initiated by Respondent No.1 under the Illegal Dispossession Act, it is evident from his own pleadings that, following the death of Abdul Hayee, the land was privately divided and demarcated among the siblings, and each had been enjoying possession of their respective shares. This admission defeats his own case, particularly his subsequent claim over the shares of Mst. Mehnas and Mst. Aziman. If, as per his own version, the land had already been divided and he was in possession, why did he not raise any objection at that time regarding any deficiency in his share, especially if he believed he was entitled to a larger portion? This selective silence and failure to raise objections at the relevant time clearly indicate that the present claims are afterthoughts,

introduced much later to challenge settled rights. Notably, the civil suit was filed in 2008, almost five decades after the death of Abdul Hayee. It is particularly significant that the alleged death certificates of Mst. Mehnas and Mst. Aziman were procured in 2009, after the institution of the suit, which further reflects that these documents were obtained merely to strengthen a weak and belated claim, rather than being part of any legal record. In view of the above, Respondent No.1's claim suffers from unexplained delay, lack of credible evidence, and procedural irregularities, and therefore fails to establish any legal entitlement to the Land in question.

24. So, in view of the foregoing reasons and discussions, the appellant has successfully made out their case. Consequently, this instant appeal is allowed. The impugned decree and judgment dated 28.01.2015, passed by the Additional District Judge-II, Dadu, in Civil Appeal No. 40 of 2014, is hereby set aside. The decree and judgment passed by the learned trial Court, whereby the suit of Respondent No.1/plaintiff was dismissed, is maintained. These are the detailed reasons for the short order dated 12.09.2025.

The instant appeal is hereby disposed of in the aforesaid terms, with no order as to costs.

JUDGE