THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

BEFORE:
Justice Arbab Ali Hakro
Justice Muhammad Osman Ali Hadi

Const. Petition No. D-672 of 2024

[Abu Bakar Khuhawar & another Vs. Member (Judicial-III) Danish Saeed Board of Revenue, Sindh Hyderabad & others]

Petitioners	**:**	Through Mr. Waqar Ahmed A. Chandio, Advocate
Respondents No.1 to 6 & 12	**:**	Through Mr. Saeed Akbar Siyal, Assistant Advocate General, Sindh
Respondents No.7 to 9	**:**	Through Mr. Mir Muhammad Bhaagat, Advocate
Respondents No.10 & 11	**:**	Nemo
Date of Hearing	**:**	**03-11-2026**
Date of Order	**:**	**12-11-2026**

O R D E R

ARBAB ALI HAKRO, J.- Through this petition under Article 199 of the Constitution, the petitioners have impugned the order dated 16.08.2024 passed by the Member (Judicial-III), Board of Revenue, Sindh, Hyderabad, in Review Application No. 26 of 2023 (hereinafter referred to as "**the impugned order**"), whereby the order dated 03.05.2023 passed by his predecessor in Revision Application No. SROR-65 of 2022 under Section 164 of the Sindh Land Revenue Act, 1967 (hereinafter referred to as "**the Act of 1967**") was reviewed and set aside.

2. Survey No. 595, area 2-07 acres, of Deh Khabeero, Tapo Daubo, Taluka Kamber, was recorded by Entry No. 126 of VF-VII-A (1985-86) in the names of Mst. Soni, Mst. Sahib Khatoon, Habibullah and Hidayatullah in four shares. By Entries Nos. 403, 404 and 405 dated 30.04.1997, the shares of the latter three were mutated in favour of Mst.Soni by way of foti khata badal. By Entry No. 413 dated 23.06.1997 and Entry No. 120 dated 03.05.2009, the land was mutated in the name of Ali Anwar as purchaser from Mst.Soni under a registered sale deed and, after his death, in the names of his heirs. The heirs of Ali Anwar sold the land to the petitioners

through registered sale deeds No. 1538 dated 06.12.2017 and No. 237 dated 28.02.2018, and Entry No. 170 dated 22.06.2018 was kept in the petitioners' favour.[1]

3. In the year 2021, respondent No. 7, along with Hidayatullah and Habibullah, filed Revenue Appeal No. 284 of 2021 under Section 161 of the Act of 1967 before the Deputy Commissioner, Kamber-Shahdadkot, contending that the entries of 1997 had been kept by showing Hidayatullah and Habibullah as dead, though they were alive. By order dated 14.12.2021, the Deputy Commissioner repelled the objection of limitation, cancelled Entries Nos. 403, 404, 405, 413 and 120, and directed restoration of Entry No. 126. The Additional Commissioner-I, Larkana, maintained that order on 06.04.2022.[2]

4. The petitioners' revision under Section 164 of the Act of 1967 was allowed by the Member (Judicial-III) on 03.05.2023 (hereinafter referred to as "**the revisional order**"); the orders of the Deputy Commissioner and the Additional Commissioner were set aside, the entries were ordered to be restored, and the aggrieved party was left to seek its remedy before the competent court of law. Respondent No.7 and the heirs of Hidayatullah and Habibullah then filed Review Application No.26 of 2023, expressly under Section 8 of the West Pakistan Board of Revenue Act, 1957 (hereinafter referred to as "**the Act of 1957**"), which was allowed by the impugned order.[3]

5. Respondent No.4 has filed para-wise comments stating that the impugned order is in accordance with law and within jurisdiction. Respondents No. 7 to 9 have filed no reply. Respondents No. 10 and 11, the petitioners' own vendors, have not appeared despite notice.

6. Learned counsel for the petitioners contended that Section 163 of the Act of 1967, which empowered Revenue Officers to review their orders, stands omitted in the Province of Sindh, that an order passed in revision under Section 164 is final by virtue of the proviso added to that section, that

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[1] Report of the Mukhtiarkar (Revenue) Taluka Kamber dated 12.04.2023, reproduced in the order dated 03.05.2023; Annexures A to D of the petition.
[2] Annexures E and I of the petition.
[3] Annexures L, M and N of the petition.

the review application was barred by time and that the impugned order gives no reason at all. He placed on record the Sind Government Gazette dated 28.07.1980 and relied upon ***Commissioner Multan Division*** and ***Muhammad Saleh***.[4]

7. Learned counsel for respondents No. 7 to 9 supported the impugned order on the grounds taken in the review application i.e that Hidayatullah and Habibullah were alive in 1997 and died only in 2022, that the revisional order proceeded on a wrong premise and that the matter ought to be decided on merits rather than on technicalities.

8. Learned Assistant Advocate General adopted the comments of respondent No. 4.

9. The questions which arise are: (i) whether the Board of Revenue has any power to review an order passed by a Member under section 164 of the Act of 1967; (ii) if so, whether that power was exercised within the conditions attached to it and (iii) what order should follow.

10. Section 163 of the Act of 1967 was omitted for this Province by Section 13 of the Sind Land Revenue (Amendment) Ordinance, 1980 (Sind Ordinance No. XI of 1980), which by Section 14 also inserted in Section 164 the proviso 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". The omission has been given effect by this Court, which has held that a Revenue Officer exercising powers under the Act of 1967 can neither review nor recall his order, review being a creature of statute.[5]

11. The Board, however, does not derive its power of review from the Act of 1967. Section 8 of the Act of 1957, under which the Board is constituted and which remains in force in this Province, permits a person aggrieved by a decree or order of the Board to apply for its review on the discovery of new and important matter or evidence, on account of some mistake or error apparent on the face of the record or for any other sufficient reason and sub-section (2) requires every such application to be made within ninety

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[4] *Commissioner Multan Division, Multan v. Muhammad Hussain* 2015 SCMR 58; *Muhammad Saleh v. Province of Sindh* 2017 CLC Note 187.
[5] *Muhammad Saleh* (n.4 above).

days of the order. Section 6(2) makes an order of a Member the order of the Board and Section 7(1) makes a Member's order in revision final subject to Section 8. The Supreme Court has applied Section 8 to a review by the Board of its own revisional order in a case arising from this Province, has held that the Board's power of review rests on that section alone, is confined to the three grounds it names and to the period it prescribes and has, in the very authority cited by the petitioners, described Section 8 as the lawful and competent remedy against a revisional order of a Member.[6] The first contention of the petitioners, taken at its widest, therefore cannot be accepted. Whether the proviso inserted in Section 164 in 1980 excludes an application under Section 8 of the Act of 1957 is a question we need not decide, for the petition succeeds on the footing most favourable to the Respondents, i.e that the remedy of review was available to them.

12. The revisional order was passed on 03.05.2023, and its copies were forwarded to the parties on 10.05.2023. The review application is dated 03.10.2023. On any computation, it was filed well beyond the ninety days prescribed by Section 8(2) of the Act of 1957. The record discloses no application for condonation of delay and the impugned order neither adverts to limitation nor records any finding on it.

13. The consequence is settled. Construing Section 8 of the Act of 1957 in a case which came from this Court, the Supreme Court held that the power of review emanates from the statute and must be exercised within the four corners of the conditions and limitation prescribed; that section 5 of the Limitation Act, 1908, has not been made applicable to such an application and the Board has no power to extend the period; and that an order passed on a review application filed after ninety days is wholly without jurisdiction. The Court set aside the review order, found it unnecessary to remand and restored the revisional order.[7] The principle was reaffirmed in 2025, when a review was entertained 111 days after the order was held to be outside the period of limitation and without jurisdiction.[8] The impugned order is, on this ground alone, without lawful authority.

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[6] *Riaz Hussain v. Board of Revenue* 1991 SCMR 2307; *Basher Ahmed v. Member (Consolidation), Board of Revenue* 2022 SCMR 620; *Senior Member, Board of Revenue, Punjab v. Abdul Shakoor* 2026 SCMR 605; *Commissioner Multan Division* (n.4 above).
[7] *Riaz Hussain* (n.6 above).
[8] *Senior Member, Board of Revenue* (n.6 above), para 4.

14. There is a second and independent infirmity. A review under Section 8 lies on the grounds the section enumerates and on no other. It is not a rehearing, and the power cannot be confused with the appellate power. An error apparent on the face of the record must be self-evident and must not require elaborate argument, and a mere desire to have the matter reheard or a repetition of contentions already considered is no ground for review.[9] Where the Board on review simply reversed the order of a predecessor without identifying any ground recognised by Section 8, the Supreme Court set the review order aside and restored the original order.[10]

15. The impugned order reproduces, in paragraphs 3 and 4, the contentions of the two sides and then, in paragraph 5, records that "in view of above factual position, the order dated 03.05.2023 passed by my predecessor is reviewed/set aside". It identifies no new matter, no error apparent on the face of the record and no other sufficient reason; it does not say what was wrong with the revisional order or why. It is, in substance, a fresh decision on the merits of the revision and a decision without reasons. An authority deciding rights in property is bound to give reasons, both by Section 24-A of the General Clauses Act, 1897 and on the general principle long settled by the Supreme Court.[11] The order cannot be sustained.

16. It was urged that the revisional order itself rested on a wrong assumption as to the time of death of Hidayatullah and Habibullah. That may be so, but an order passed within jurisdiction does not become a nullity because its reasoning is open to criticism, and an error of that kind can be corrected on review only within the time and on the grounds the statute allows. The Supreme Court has cautioned that if review were exercised outside those conditions merely to rectify a decision thought to suffer from mis-appreciation of law or facts, it would lead to an unending cycle of litigation.[12] The grievance, whatever its strength, cannot confer a jurisdiction which the statute withholds.

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[9] *District Education Officer (Female), Charsadda v. Sonia Begum* PLD 2025 SC 720; *Haji Muhammad Boota v. Member (Revenue), Board of Revenue* 2010 SCMR 1049.
[10] *Basher Ahmed* (n.6 above).
[11] *Mollah Ejahar Ali v. Government of East Pakistan* PLD 1970 SC 173.
[12] *Senior Member, Board of Revenue* (n.6 above), para 7.

17. Once the impugned order goes, the revisional order revives. No purpose would be served by a remand, for the Board cannot entertain a review which is barred by time; the Supreme Court declined to remand in identical circumstances.[13] Nor does restoration of the revisional order decide anything as to title. The controversy between the parties is whether living persons were shown as dead in 1997 so as to vest their shares in Mst.Soni and what effect the subsequent registered sale deeds and a quarter century of unchallenged entries have. The Supreme Court has held that the revenue hierarchy is a quasi-judicial forum of limited jurisdiction, that its orders are administrative and tentative in nature and neither determine title nor resolve the factum of fraud and that a controversy of that kind requires evidence and lies within the domain of the civil court, Section 172 of the Act of 1967 notwithstanding.[14] This Court has likewise held that the authenticity of a registered instrument cannot be examined by the revenue authorities and that entries resting upon one cannot be cancelled by them.[15] Every order in the revenue hierarchy in this case, including the impugned order, itself left the parties to the civil court. We make it clear that nothing in this order or in any order of the revenue forums in these proceedings shall be taken as an adjudication of title to the land or of the allegation of impersonation, which the civil court, if approached, will decide on its own merits and on the evidence, uninfluenced by any observation of the revenue forums or of this Court.

18. For the foregoing reasons, the petition is **allowed**. The impugned order dated 16.08.2024 passed by the Member (Judicial-III), Board of Revenue, Sindh, in Review Application No. 26 of 2023 is declared to have been passed without lawful authority and is set aside. The order dated 03.05.2023 passed in Revision Application No. SROR-65 of 2022 stands restored, subject to the clarification in the preceding paragraph. There shall be no order as to costs.

JUDGE

JUDGE

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[13] *Riaz Hussain* (n.6 above); *Basher Ahmed* (n.6 above).
[14] *Abdullah v. Waryam* 2026 SCMR 1042.
[15] *Mst. Ghulam Sakina v. Member (J), Board of Revenue* PLD 2004 Karachi 391.