JUDGMENT SHEET
THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Civil Revisions Nos. S-133 and 134 of 2025

Government of Sindh and others ...in R.A. No. S-133 of 2025
Allah Dino (Decd.) through LRs and others ...in R.A. No. S-134 of 2025
...Applicants

Versus

Allah Dino (Decd.) through LRs and others ...in R.A. No. S-133 of 2025
Government of Sindh and others ...in R.A. No. S-134 of 2025
Respondents

For the Applicants Nos. 1 to 3	:	Mr. Muhammad Sharif Solangi, Asst. Advocate General Sindh along with Mukhtiarkar (Revenue), Shahdadpur
For the Applicant No. 4	:	Mr. Dileep J. Mullani, Advocate
For the Respondents	:	Mr. Maisum Hussain Sahar, Advocate
Date of Hearing	:	09.10.2026
Date of Judgment	:	21.10.2026

JUDGMENT

Muhammad Humayon Khan, J.: Both these revision applications arise out of common proceedings and are being decided together. For ease of reference, the parties, who remain the same in both the matters, are referred according to their titles in Civil Revision No. S-133 of 2025 which was filed earlier.

2. The dispute is in relation to an area of land, being Survey Nos. 620, 847 and 7/3 measuring 05 acres 9 ghuntas in Deh Qubo Yagan, Taluka Shahdadpur (hereinafter the “suit land”). The area is being claimed by the Respondents as private owners and by the Applicants as land belonging to the Applicant No. 4 (Police Training College, Shahdadpur). The Respondents filed First Class Suit No. 68 of 1995 before the learned Senior Civil Judge, Shahdadpur, against the Applicants pleading that:

i) The suit land was originally owned by Haji Muhamad Ibrahim, the husband of the Respondent No. 2 and the father of the remaining Respondents. Upon the death of Haji Muhammad Ibrahim, it was inherited by the Respondents and a mutation in the revenue record was accordingly made.

ii) The suit land was acquired by the Applicant No. 1 for the construction of building for S.P.R. Shahdadpur, but later on it was surrendered and given back to Haji Muhammad Ibrahim by Letter dated 16.06.1958 issued by the Deputy Commissioner, Sanghar.

iii) The suit land was re-surveted and made agricultural land under Ghat Wadh Form No. 85 and was entered in Form-VII of Deh Qubo Yagan, Taluka Shahdadpur.

iv) There are/were quarters for the recruits and staff of the Police Training College, Shahdadpur (Applicant No. 4) which was previously the Police Training School, near the suit land.

v) In 1991, the Applicant No. 4 threatened to take possession of the suit land by force. As such, a Civil Suit No. 58 of 1991 was filed against the Applicant No. 4 and others which was dismissed in default.

vi) In the meantime, the Respondent No. 1 filed an application before the Assistant Commissioner, Shahdadpur for the possession of the suit land. The Assistant Commissioner appointed the Mukhtiarkar, Shahdadpur, as receiver and subsequently the Applicant No. 4 gave up its claim and ultimately the Assistant Commissioner gave back the possession of the suit land to the Respondent No. 1.

vii) Again, on 20.10.1993, the Applicant No. 4 started to claim the suit land as its property and as such again a

civil suit was filed by the Respondent No. 1 which was withdrawn and subsequently another suit was filed.

The said suit was also dismissed on 08.02.1995 and on 09.02.1995, the Applicant No. 4 took the possession of the suit land through its recruits.

viii) The Mukhtiarkar, Shahdadpur, has mutated the khata of the suit land in favour of the Respondents. The land does not belong to the Applicant No. 4 and in fact it is the property of the Respondents. The previous suit was withdrawn with permission to file a fresh one.

The following prayer was made in the suit:

"20. That Plaintiffs pray for judgment and decree as under: -

(A) To Declare that the Plaintiffs are the owners of the suit land, i.e. S. Nos. 7/3, 620 and 847 of deh Qubo Yagan, Taluka Shahdadpur.

(B) That the posession of the suit land to be taken from Defendant No. 4 and the Plaintiffs be put in possession of the same.

(C) That Permanent Injunction be issued against the Defendants restraining them from interfering with the suit land and taking possession from the Plaintiffs.

(D) Mesne Profits be recovered from the Defendants.

(E) Defendants be bear the costs of the suit.

(F) Any other relief which the honourable Court deems fit."

3. Against the suit, the Applicant No. 4 filed its Written Statement and pleaded the following defence:

i) Haji Muhammad Ibrahim was not the owner of the suit land. The entries in favour of the Respondents are illegal and were placed without notice to the Applicant No. 4 and as such are void and not binding. The re-survey, Ghat Wadh Form and Entries in the revenue record are illegal and invalid.

ii) Haji Muhammad Ibrahim did not plant any mango trees in the suit land.

iii) The suit land was acquired for S.P.R. but it was not acquired from Haji Muhammad Ibrahim nor was it surrendered or given back to Haji Muhammad Ibrahim. The land was never surrendered and the alleged order dated 16.06.1958 of the Deputy Commissioner, Sanghar, is illegal, void, *mala fide* and without any authority which was passed without hearing the Applicant No. 4.

iv) Previously the Applicant No. 4 was the Police Training School.

v) Haji Muhammad Ibrahim filed F.C. Suit No. 58 of 1991 which was dismissed. The Applicant No. 4 had not issued any threats of dispossession, whereas the contentions that Assistant Commissioner appointed Mukhtiarkar as receiver were denied for want of knowledge as statedly no notice was issued to the Applicant No. 4. The Applicant No. 4 had never given up its possession.

vi) The contentions with regard to filing of suits were admitted, whereas any allegations against the Applicant No. 4 in relation thereto were denied.

vii) The suit is undervalued and have not paid the requisite court-fee of Rs. 15,000/-.

viii) The suit is barred under Order IX Rule 9 of the CPC as the earlier F.C. Suit No. 58 of 1991 was dismissed.

ix) The plaint does not disclose any cause of action. The suit is not maintainable, and is time-barred.

4. The remaining Applicants did not file any written statement. From the available pleadings, the learned Senior Civil Judge framed twelve (12) issues and on which the parties recorded their

evidence. By Judgment dated 29.08.2003 and Decree dated 01.09.2003, the learned Senior Civil Judge dismissed the suit. The said Judgment and Decree were challenged by the Respondents in Civil Appeal No. 22 of 2003 which was allowed by Judgment dated 11.11.2006 and Decree dated 16.11.2006 by the learned Additional District Judge, Shahdadpur.

5. Against the Judgment dated 11.11.2006 and Decree dated 16.11.2006, the Applicants filed Civil Revision No. 05 of 2007 before this Court which was disposed of by a consent Order dated 07.10.2010 and the matter was remanded back to the learned Additional District Judge for recording additional evidence and allowing the parties to record evidence in rebuttal. The operative paragarph of the Order dated 07.10.2010 reads as follows:

> "By consent, the impugned judgment dated 11.11.2006 of the learned Additional District Judge, Shahdadpur in Civil Appeal No. 22/2003 is set aside and the matter is remanded to the Additional District Judge, Shahdadpur where the resondents Nos. 2 to 9 will be allowed to produce the documents listed in the application and the Applicants' counsel will be allowed to cross-examine the Respondent witness and thereafter the Applicants will be allowed to lead evidence in rebuttal and to decide the appeal afresh. Such exercise will be done by the learned Additional District Judge, Shahdadpur preferably within a period of four months from today.
>
> The revision application and the listed application in the above terms stands disposed of."

6. Upon remand, the requisite additional evidence was recorded and by Judgment dated 18.01.2012 and Decree dated 23.01.2012, the learned Additional District Judge decreed the suit of the Respondents to the extent of Survey No. 847 measuring 03-24 acres while declining the same relief as to the remaining two survey numbers (620 and 7/3). He did so on the basis of a purported conceding statement by the learned Counsel for the Respondents the note of which is made in the last paragraph on his discussion on Point No. 1 (p. 215 of the file of R.A. No. S-134 of 2025). (The Judgment dated 18.01.2012 and Decree dated 23.01.2012 are referred to herein below as the "impugned Judgment" collectively.)

7. Against the impugned Judgment, the Applicants filed R.A. No. 133 of 2025 (originally R.A. No. 30 of 2012). The application was originally filed before the Circuit Court at Hyderabad but was later on transferred to this Circuit and renumbered as above. The Applicants prayed that the impugned Judgment may be set aside and the Judgment and Decree of the learned Senior Civil Judge may be restored.

8. On the other hand, the Respondents employed a rather different route to the limited extent of the purported conceding statement of their Counsel. They filed an application for review under s. 114 read with r. 1 of O. XLVII of the CPC. The application is on four paragraphs and is summarised as follows:

i) The purported conceding statement was a *bona fide* error and mistake and in fact there was a dispute in relation to Survey Nos. 620 and 7/3 along with Survey No. 847.

ii) There is sufficient evidence available to show that there was dispute as regards the said survey numbers and no furhter evidence or factual inquiry is required. Therefore the requisite correction by inserting the said survey numbers may be made to do away with the inadvertent and *bona fide* mistake.

iii) The Respondents wil suffer irreparable loss if the application is not allowed.

9. The Applicant No. 4 filed a counter-affidavit against the said application stating as follows:

i) The application is not maintainable and is liable to be dismissed.

ii) The impugned Judgment has already been challenged by the Applicants before this Court in Civil Revision No. S-133 of 2025 (naturally mentioned in the counter-affidavit as Civil Revision No. S-30 of 2012).

iii) The application is time-barred hopelessly.

iv) The Court in its review jurisdiction cannot interfere in the matter lightly. There was no typographical error or mistake in the impugned Judgment and the same cannot be corrected by filing an application for review.

v) In evidence of the deceased Respondent, Allah Dino, no mention of Survey No. 7/3 has been made. Any interpolation or mentioning the actual area in the impugned Judgment and Decree is not essential and in fact the same will allow the Respondents to fill lacunas.

vi) Reappraisal or appreciation of evidence does not constitute a ground for review.

10. By Order dated 10.04.2012, the learned Additional District Judge dismissed the application for review filed by the Respondents and he did so on two grounds. The first was that the orders as to Survey No. 847 were made upon the own statement of the Counsel for the Respondents and it cannot be said that there was a *bona fide* mistake requiring correction. The second was that the impugned Judgment has been challenged before this Court in civil revision and any mistake will be naturally corrected by this Court. Aggrieved, the Order dated 10.04.2012 has been challenged by the Respondents in R.A. No. S-134 of 2025 (originally R.A. No. S-121 of 2012 filed before the Circuit Court at Hyderabad). These matteers being natural corollaries of each other were taken up together by different benches and came up before me on 09.10.2026 when I heard Mr. Muhammad Sharif Solangi, the learned Assistant Advocate General Sindh, Mr. Dilip J. Mullani for the Applicant No. 4 and Mr. Maisum Hussain Sahar for the Respondents.

11. Mr. Dilip J. Mullani argued, inter alia, that the impugned Judgment is erroneous both on facts and law and that the learned Additional District Judge failed to appreciate the case in its true perspective. He contended that the Ghat Wadh Form filed by the Applicant No. 4 were wrongly treated as fraudulent documents

owing to tampering made therein, whereas there appears to be no erasing, overwriting or tampering on the record and they are genuine documents. He contended that the learned Additional District Judge has based his decision upon the evidence of two witnesses (Hussain Bux and Sahib Dino) that they were haarees of the Respondents fifteen years ago but has ignored that no documentary evidence was produced to prove this aspect. He contended that the entries and documents in favour of the Respondents are not legal and valid and rather they are illegal and were effected without notice to the Applicant No. 4. He stated that the Ghat Wadh Forms in favour of the Police Department were issued upon the orders of the Deputy Commissioner Sanghar bearing No. 6137 dated 16.06.1958 endorsed by the Director of Settlements Survey and Land Records, Hyderabad, by No. G/3242 dated 27.06.1958. He argued that in fact the claim of the Respondents was cooked up and fraudulent and managed in connivance with the revenue department. On the review application, he contended that the same was not maintainable and was rightly dismissed by the learned Additional District Judge as the statement of counsel was binding upon the Respondents. Finally, learned Counsel for the Applicants prayed for allowing R.A. No. S-133 of 2025 and dismissing R.A. No. S-134 of 2025. He also filed written synopsis which have been taken on record. In support of his arguments, he relied upon *Mirza Muhammad Saeed v Muhammad Akram Munir and others* 2001 YLR 919 (Lahore).

12. Mr. Muhammad Sharif Solangi, the learned Assistant Advocate General, argued on the same lines as Mr. Dileep J. Mullani and it is not necessary to reproduce his arguments. The Mukhtiarkar (Revenue), Shahdadpur, was queried as to the status of the revenue records in favour of the Respondents and to which he replied that the entries in respect of Survey Nos. 620, 7/3 and 847 were all in the name of the Respondents while the title of the Applicants extended to some other survey numbers. Upon this matter, the learned Assistant Advocate General was queried as to whether the Government of Sindh or the Applicant No. 4 had filed any civil suit under s. 53 of the Sindh Land Revenue Act, 1967, in view of the title dispute, and he stated that this was not done.

13. Mr. Maisum Hussain Sahar, the learned Counsel for the Respondents, supported the appreciation of evidence and law by the learned Additional District Judge. He contended that the learned Additional District Judge has rightly allowed the appeals in terms of the reasoning provided by his learned self. However, he argued that the appeal should have been allowed in respect of the entire suit land and not just Survey No. 847. He took the Court through the entire chronology of events from 1958 to 2012 and then stated that the learned Additional District Judge had failed to apply his judicial mind in dismissing the review application. He contended that the alleged conceding statement by Counsel was an error apparent on the face of the record as the Counsel had himself argued upon all the survey numbers and which had been genuinely disputed by them throughout their litigation. On the review application, he relied upon *Forte Pakistan (Pvt.) Ltd. v Azam Khan and others* 2017 MLD 1049 and prayed that R.A. No. S-134 of 2025 filed by the Respondents may be allowed as prayed. With regard to R.A. No. 133 of 2025, which is on the merits of the entire case, he stated that the revision application filed by the Applicants is misconceived and liable to be dismissed. He stated that the Applicants have relied solely upon Ghat Wadh Forms which do not establish any title in their favour and for the purposes of the said revision application he fully supported the reasons that prevailed with the learned Additional District Judge. He prayed that R.A. No. 133 of 2025 may be dismissed. On this aspect he relied on *Muhammad Buta v Allah Ditta* 1998 SCMR 2764.

14. In my view, the following questions fall for the determination of the present matters:

i) Whether the impugned Judgment was illegal, erroneous and based upon misreading or nonreading of evidence and the Judgment and Decree of the learned Senior Civil Judge were wrongly set-aside?

ii) Whether the omission of Survey Nos. 7/3 and 620 from the reliefs granted in the impugned Judgment was an error apparent on the face of the record warranting exercise of review jurisdiction?

15. To begin on Point No. 1, I may discuss the concept of burden of proof for the present purposes. The proceedings in the present case were of course of a civil nature and the decision in which is to be made on the preponderance of evidence or the balance of probabilities which has been discussed by me in *Ali Muhammad v Muhammad Shahid* First Appeal No. S-01 of 2026 (Judgment dated 30.09.2026; unreported) in the following manner (para 20; emphasis in original):

> "20. The summary suit as between the parties was obviously a civil matter and in which cases the burden of proof of the Respondent stood discharged upon the preponderance of evidence. This concept (of preponderance of evidence) is also understood as meaning that a matter may be considered as proved if it is "more probable than not" (*Miller v Minister of Pensions* [1947] 2 All ER 372). This matter was considered by my honourable brother, Muhammad Abdur Rehman J, in *Muhammad Qabool v Muhammad Ashraf* First Appeal No. 35 of 2021 (Judgment dated 13.10.2023; unreported; para 9; emphasis in original):
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> > "9. …The standard of proof in civil cases has been described in the decision reported as Miller v Minister of Pensions: [footnote 1: 1947 All ER 372]:
> >
> > '…If the evidence is such that the tribunal can say 'we think it more probable than not' the burden is discharged, but if the probabilities are equal it is not.'
> >
> > A similar, albeit more mathematical explanation, was given in the decision reported as Re: B [footnote 2: 2008 UKHL 35] wherein it was held that:
> >
> > '…If a legal rule requires a fact to be proved (a 'fact in issue'), a judge or jury must decide whether or not it happened. There is no room for a finding that it might have happened. The law operates a binary system in which the only values are 0 and 1. The fact either happened or it did not. If the tribunal is left in doubt, the doubt is resolved by a rule that one party or the other carries the burden of proof. If the party who bears the burden of proof fails to discharge it, a value of 0 is returned and the fact is treated as not having happened. If he does discharge it, a value of 1 is returned and the fact is treated as having happened.'"

As such, the Respondents would have succeeded in their case upon proving that their title over the suit land was proved to be more probable than not as against the rival contentions of the Applicants. It is also well-established that, once the parties have recorded their entire evidence, and there is sufficient material for

the Court to decide the case, burden or onus to proof loses relevance and then the matter must be decided on the balance of probabilities and burden of proof only becomes relevant where the parties are completely equal on the strength of their evidence: *Mst. Nazeeran and others v Ali Bux and others* 2024 SCMR 1271 (para 9), *Mst. Zainab v Majeed Ali and another* 1993 SCMR 356 (para 10), *Mst. Khatun v Malla and 5 others* 1974 SCMR 341 and *Mst. Tahira Dilawar Ali Khan through Attorney and 2 others v Mst. Syeda Kaneez Sughra and 2 others* PLD 2007 Karachi 50 (para 21) and *Brendon International Limited v Water Plus Ltd* [2024] EWCA Civ 220 (paras 50 to 54). It is only the Applicant No. 4 and the Respondents who are competing on the entitlement of the suit land, and in my view the party who has proved a better title ought to be the owner of it on the balance of probabilities. It is in this context that the evidence of the Respondents must be examined and which I shall now do.

16. In order to prove their case, the Respondents first examined the Respondent No. 1 (PW-1; Exh-52; pp. 93 to 123 of the Trial R&Ps). In his examination-in-chief, he deposed upon the entire detail and chain of the title of the Respondent No. 1 through Haji Muhammad Ibrahim, as stated in the plaint. The claim of the Respondents is traced through entries in Village and Deh Forms-VII of Deh Qubo Yagan as produced at Exh-53 to 63. These documents are in respect of the suit land. Subsequently, certain entries from the record were also produced by Hamza Khan, Tapedar Deh Qabu Yagan (PW-4; Exh-73; pp. 129 to 143) which were also in favour of Haji Muhammad Ibrahim. PW-4 was examined on oath and he deposed on the said entries in favour of the predecessor-in-title of the Respondents and was cross-examined at length. He even deposed as to the old record reflecting the chain of ownership in favour of Haji Muhammad Ibrahim from his father on the basis of gift.

17. The Respondents also examined Muhammad Umer, Junior Clerk, Deputy Commissioner Officer, Sanghar (PW-5; Exh-85; pp. 145 to 167) as well as Muhammad Ramzan, Assistant, Revenue Branch, Commissioner Office, Mirpurkhas (PW-6; Exh-96; pp. 169 to 177) who produced a chain of correspondence initiated in favour

of the Respondents in relation to the occupation of the suit land by the Applicants. As a part of the said chain of correspondence, the Mukhtiarkar, Shahdadpur addressed a Report/Letter No. 785 of 1996 dated 29.12.1996 (Exh-89; pp. 153 to 155) according to which the Mukhtiarkar has reported as follows to the Deputy Commissioner, Sanghar:

i) The father of the Respondent No. 1, namely Muhammad Ibrahim, owned agricultural land bearing Survey Nos. 7/3, 847 and 620 measuring 24-01 acres from unassessed No. 831 in Deh Qubuyagan.

ii) The area in Survey Nos. 847 and 620 was originally under the head of SPR vide Entry No. 70 of Ghat Wadh Form, however, the said area was excluded by the Deputy Commissioner by Order No. 6137 dated 16.05.1958 followed by Ghat Wadh Form No. 87issued by Director of Settlements Survey and Land Records by Letter No. G-6342 dated 27.06.1958. Thereafter the land was allotted to Haji Muhammad Ibrahim by C.O. Sukkur Barrage by entry in V.F. VII-B.

iii) Muhammad Ibrahim planted a garden on the suit land and after his death *foti khata badal* was made in favour of the Respondent No. 1 and other legal heirs of deceased Muhammad Ibrahim.

iv) Similarly, Survey No. 7/3 was also under the head of SPR vide Entry in VF-VII-B (entry number is not mentioned in the document) but it was excluded and was entered in the name of Haji Muhammad Ibrahim from the year 1954/55 vide Entry No. 6A of VF-VII-A and subsequently the khata of the said land also was made in favour of the Respondent No. 1 and the other legal heirs of Haji Muhammad Ibrahim by Entry No. 432 of VF-VII-B.

v) The Applicant No. 4 (PTC Shahdadpur) have encroached on the suit land about 5-6 years before the Letter.

vi) Haji Muhammad Ibrahim was also granted state land measuring 24-1 acres out of unassessed No. 831 from Rabi 1955-56. According to Ghat Wadh Form No. 105, nea Survey Nos. 872 and 886 measuring 23-17 acres have been formed against the area of 24-01 acres alloted to Haji Muhammad Ibrahim and *foti khata badal* has been made in respect of the said land as well vide Entry No. 432 of VF-VII-B. The PTC has encroached upon the said land.

vii) The Respondents are the co-sharers in the said land and their request for restoration of possession from the Applicant No. 4 appears to be reasonable.

viii) PTC (Applicant No. 4) may be requested to vacate the encroached land unauthorisedly occupied by it.

18. Furthermore, a Report No. PA/54 of 1997 dated 19.02.1997 was made by the Commissioner, Mirpurkhas Division (Exh-91; pp. 165 and 167) on each of the survey numbers. He stated in the said report that although the matters are sub-judice before the learned Senior Civil Judge (as they then were), the claim of the Respondent No. 1 appears to be reasonable as the area was given by the Colonisation Officer, Sukkur Barrage to Haji Muhammad Ibrahim and T.O. Forms have been isued. This official correspondence has not been confronted by the Applicants throughout their evidence and the same was made by their own administrative hierarchy up to the level of the Chief Minister of the Province.

19. The Respondents examined two witnesses to prove their past possession, namely Hussain Bux (PW-2; Exh-64; p. 125) and Sahib Dino (PW-3; Exh-65; p. 127). They both stated on oath that they were haarees of the Respondent about fourteen years before their time of deposition. They were cross-examined at little length but they remained steady on their versions and in my view the Applicants could not rebut the evidence on possession given by these witnesses.

20. Subsequently, when post-remand additional evidence was recorded before the learned Additional District Judge, the

Respondents examined one witness namely Abdul Sattar (ADJ-PW-1; Exh-01) who produced multiple documents (Exh-1/A to 1/P). At this stage, I may pause to clarify one important point. Once the Court has taken additional evidence on the record and permitted the admission of such additional evidence, the subsequent consideration thereof cannot be refused simply because it was not earlier produced. The objection as to late production is something to be attended to at the stage when it is sought to be admitted, but once the evidence is admitted, the objection remains essentially to its authenticity and validity. In *Ameer v Shahadat* 2005 SCMR 1147, there was a specific performance suit in which the main document, i.e. the Agreement of Sale, was not produced. However, the Supreme Court observed that since no objection was taken upon the later admission of the agreement, the ground was waived and could not be taken up by the first Appellate Court. The present suit, in my view, is on a similar footing and I will be considering the evidence in this context.

21. Coming back, it will be seen that the first document was Exh-1/B, which was the Letter/Order dated 16.06.1958 issued by the Deputy Commissioner as aforesaid and by which Survey No. 847 was surrendered and left open for disposal. Subsequently, at Exh-1/C to 1/E, there are documents relating to allotment in favour of Haji Muhammad Ibrahim, namely T.O. Form, payment receipt and Form-A and then at Exh-1/F to 1/M, there are different entries in favour of Haji Muhammad Ibrahim respecting the suit land. The said witness was cross-examined however no direct question as to the authenticity and validity of these documents was put to him and as such in my view they remained uncontroverted in cross-examination.

22. On the other hand, the Applicants attempted to rebut the case of the Respondents through the evidence of two witnesses, the first being Sub-Inspector Ghulam Qadir (DW-1; Exh-105; pp. 181 to 193). He deposed, inter alia, that the suit property is vested in the Sindh Police Reserve and has been granted to the Applicant No. 4 and is in its possession. He deposed that the suit land has from the beginning remained in the ownership of the Applicant No. 1. He stated that the Government had never surrendered the land

to Haji Muhammad Ibrahim. He basically gave the entire account of the pleadings of the Applicant No. 4 as per its written statement and only produced Ghat Wadh Form in favour of the Applicant No. 4 to support its claim. He was cross-examined at length and he admitted as follows:

> "…Except the document produced by me in my evidence at Ex: 108 no order document are entitle of the suit land is in the name of Government or in the name of SPR, PTS or PTO… Except the Ghat Wadh Form there is no existence of any document or record to show that the suit land was the property of SPR and after that it was transferred to PTS by Government of Sindh. PTS was upgraded as PTC in year 1994. If the ownership of the suit land is of the plaintiffs is is without notice to us and it is wrong. I do not know whether the mutation of the suit land is in the Revenue Record of rights in the name of the plaintiffs as its owner. I am not aware that D.O. Sanghar surrendered the suit land in year 1958 to Mohd Ibrahim. It is correct to suggest that adjacent to the suit land PTO has also got other land and quarters of recruits… We are earning from the suit land 15000/- to 25,000 per year this is income of the garden…"

23. It will be seen that DW-1 has shown complete unawarenes as to whether the suit land was surrendered to the predecessor-in-interest of the Respondents in the year 1958 or whether there was any mutation in favour of the Respondents. Now, I am not unmindful that stating lack of knowledge and clearly denying a matter are two different things, but in my view they do not yield very different results. Simply stating that a fact is not in the knowledge of the witness does not amount to rebutting the case of the other party and as such, if the party making a claim is able to provide affirmative pleadings and evidence on the matter, the denial of knowledge (not being denial of fact) will not disprove the case. It is well-established that denial for want of knowledge is no denial at all: *Cantonment Board Clifton through duly Authorised Officer v Nadim Ahmed Ansari* PLD 2025 Sindh 36, *Anwar Baig and another v Mst. Naziran Bibi and 8 others* 1987 CLC 1855, *Jahuri Shah and others v Dwerka Prasad Jhunjhunwala and others* AIR 1967 SC 109 and *Muddasani Venkata Narsaiah (D.) thr LRs v Muddasani Saroja* (2016) 12 SCC 288 (accessible at: https://api.sci.gov.in/jonew/judis/ 43600.pdf?utm_source). In these circumstances, I hold that the Applicants totally failed to rebut through evidence the affirmative evidence of the

Respondents as to their ownership and entitlement to the suit land.

24. Not only this, but DW-1 also admitted that, apart from Ghat Wadh Form, the Applicants have no document whatsoever to prove their own claim. In juxtaposition with this, the Court cannot ignore the fact that there is legitimate correspondence (as discussed above) as between the government administrative hierarchy itself tending to support the ownership and claim of the Respondents' predecessor-in-title, Haji Muhammad Ibrahim, and through him of all the Respondents.

25. The second witness was Safdar Ali, Junior Clerk/Record Keeper, Senior Civil Court, Shahdadpur (DW-2; Exh-121; pp. 195 to 203). He produced the record in relation to First Class Suit No. 58 of 1991 titled *Haji Muhammad Ibrahim and others v Government of Sindh and others* and First Class Suit No. 109 of 1994 titled *Allah Dino and others v Government of Sindh and others*. Exh-122 was the Order dated 28.11.1992 which was an order dismissing F.C. Suit No. 58 of 1991 in default while Exh-123 was a site-inspection report. In my view, the only thing these documents tend to attract is an objection under r. 9 of O. IX of the CPC as against the suit, however, in my view the earlier suit was under the cause of action that accrued to deceased Haji Muhammad Ibrahim while the subsequent one was in relation to a separate act of dispossession and in respect of a cause of action that had subsequently accrued to his legal heirs, the new owners of the property upon his death. In my view this argument was cogently answered by the learned Additional District Judge and erroneously by the learned Senior Civil Judge who considered the earlier suits on their facial features without going into substance.

26. Subsequently, during post-remand additional evidence, the Applicants examined Ghulam Mustafa, Inspector, PTC Shahdadpur (ADJ-DW-1; Exh-3) who again produced Ghat Wadh Forms but did not produce any title document. He was cross-examined and in result multiple inconsistencies and contradictions came out into the evidence of the Applicants as regard the Ghat Wadh forms produced:

> "…It is correct to suggest that I have produced Ghat Wadh Form at Ex. 3/B which is attested by Medical Officer PTC, Shahdadpur. I see Ghat Wadh Form at Ex. 3/B and to say that S.No. 840 has been scored off and in its place S.O: 845 has been shown. I see at Ex.3/B (Ghat Wadh Form) and to say that there is no initial or signature of concern authority after cutting the same. I see at Ex. 3/B (Ghat Wadh Form) and to say S.No. 843 has been scored off and on its place 846 has been mentioned. S.No>844 scored off and on its place 847 has been mentioned. It is correct to suggest that there is no initial or signature of concern officer on cutting mentioned at Ex.3/B (Ghat Wadh Form). It is correct to suggest that order of Deputy Collector is not produce by me in my deposition."

In view of the clear admissions of the witness the learned Additional District Judge was quite correct to doubt the Ghat Wadh Form produced by the Applicant No. 4 in additional/rebuttal evidence and I fully agree that the same is not a reliable document. The Ghat Wadh Form, as it is stated, was attested by an official from within the Applicant No. 4 and not by a revenue official being the custodian of the record and as such the attestation was not valid and unreliable. In these circumstances, it seems to me that the status of the Ghat Wadh Form as produced in additional evidence was not more than a photocopy (having not been attested by its custodian but rather by an unrelated official of the Applicant No. 4 itself), meaning thereby that it was produced without following the procedure required for the production of secondary evidence under the QSO and as such it was inadmissible. The Ghat Wadh Form is at least inadmissible and doubtful in nature and was rightly ignored by the learned Additional District Judge.

27. In my view, therefore, the title of the Respondents was established through documentary evidence which includes revenue entries, Form-A, T.O. Form, evidence on prior possession as well as official correspondence which trace back to the high revenue hierarchy within the Government (Applicant No. 1). The Applicants could not rebut this plethora of affirmative evidence produced by the Respondents and in any case they totally failed to establish their own claim of ownership through any title document or otherwise. I therefore hold that it is more probable than not (on the balance of probabilities) that the Respondents are the owners (through Haji Muhammad Ibrahim) of the suit land and as such I agree with the learned Additional District Judge that the suit of

the Respondents should have been decreed as prayed. The learned Senior Civil Judge was wrong to have dismissed the suit and his Judgment and Decree ought to have been set aside as they were by the learned Additional District Judge with whose view I agree. I would answer **Point No. 1** in the **negative** and I will be dismissing R.A. No. S-133 of 2025 filed by the Government of Sindh and others.

28. Now, in relation to Point No. 2, it is already well-established that an admission against established facts (or overwhelming evidence) or in ignorance of legal rights is not binding on the party making them. Under Art. 45 of the QSO, an admission is not conclusive proof of the matters admitted but may only estop under the provisions of the QSO itself, and as such an admission may be proved wrong. Under Art. 113, an admitted fact need not be proved but the Court still retains the discretion to require admitted facts to be proved otherwise than by admission.

29. Thus, in *Ahmad Khan v Rasul Shah and others* PLD 1975 SC 311, the case before the Supreme Court was regarding an agreement which had been contested throughout and actually disproved on evidence, however, the purported seller had made a letter by which he disclaimed the property stating that it had been sold to his brother. It was stressed that the letter operated as conclusive admission, but the Supreme Court refused to accept this contention against the overwhelming evidence which meant that the admission was against the legal rights of the party and the facts brought on the record. The case was in relation to the Evidence Act, 1872, which has since been replaced by the QSO but the provisions, in their relevant part, remain the same. It was held, inter alia, as follows (emphasis added):

> "…It was stressed that this admission was conclusive and the findings of the trial Court and the High Court cannot therefore be maintained. I find it difficult to subscribe the proposition that this admission is conclusive or it would otherwise destroy the title in the land acruing to the plaintiffs- respondents on the basis of their adverse possession for the statutory period. *As ruled by their Lordships of the Judicial Committee in Daulat Singh Ji v. Khachar Mansoor admissions of facts are only relevant, and are no conclusive and therefore, may be shown to be wrong. Their Lordships observed in that case:*

> *'Evidence Act expressly provides that admissions are not conclusive proof of the matters admitted. Even if it amounts to clear admissions, it will not bar a suit.'*
>
> *Therefore, an admission which is wrong in point of fact or is made in ignorance of legal right, has no binding effect on the person making it…"*

(The Court went on to make observations on two exceptions on this rule, the first being estoppel by law and the second admissions in pleadings, but both are not presently relevant and hence not discussed by me.)

30. Subsequently, in *Barkhurdar v Muhammad Razzaq* PLD 1989 SC 749, the Supreme Court followed and endorsed the view taken in *Ahmed Khan*. The dispute was in relation to possession and an admission was present on the record in respect of the said aspect which had been proved to be otherwise through "overwhelming evidence." The Supreme Court observed as follows (para 12; emphasis added):

> "…The only piece of evidence of which capital has been made by the learned counsel for the appellant in this case was the admission made by the respondent in the present suit that the delivery off possession of the suit land was made to the appellant in 1979. *But then in view of the overwhelming evidence brought on the record to the contrary, we are clear in our mind that this admission which is worng on a point of fact or is made in ignorance of a legal right has no binding effect on the person making it.* Reliance in this respect has been rightly placed by the learned Additional District Judge on the authority of this Court reported as Ahmad Khan v. Rasul Shah PLD 1975 SC. 311."

31. Even on admissions by counsel, there is considerable authority in this same context. In *Qadeer Ahmad v Ejaz Ahmed through LRs and others* 2017 YLR 1217, the Lahore High Court had a similar matter where a concession on a point of fact had been made by the counsel for a party against established facts and evidence. The learned Court examined the evidence at length, found the admission of counsel to be inconsistent therewith, and proceeded to hold as follows (para 7; emphasis added):

> "…No doubt, learned trial court while dictating the final judgment observed that learned counsel made aforementioned admission during arguments, but admittedly neither his independent statement was recorded nor any

> specific [order was spontaneously passed on the strength of such admission while returning the plaint. It is also an intricate question to acuiesce the proposition that such an admission can be treated conclusive or not. It is settled principle of law that an admission, which is wrong in point of fact or is made in ignorance of legal right, has no binding effect on party to lis, even if it is made by an expert during the course of arguments before a court of law and in arriring at this conclusion, I am fortified by the dictum laid down in case titled Ahmad Khan v. Rasul Shah and others (PLD 1975 Supreme Court 311):
>
> [paragraph from *Ahmad Khan* reproduced]
>
> And in the light of said dicta, if any wrong admission against the fact and record is made on part of a party or his counsel, that cannot be treated as conclusive or absolute."

32. In *Federation of Pakistan v Sheikh Rasheed Ahmed* PLD 2026 Lahore 528, the respondent was a politician and his name had been placed on the Exit Control List (ECL) and it was in this connection that the matter had come before the Lahore High Court in the form of a constitutional petition. The matter had resulted from an erroneous and unauthorised admission made by the Additional Attorney General for Pakistan (a law officer), and it was observed as follows (para 12; emphasis added):

> "…A careful perusal of the above observation reflects that the impugned order was passed primarily on the basis of the statement given by the learned Additional Attorney General on behalf of the Federal Authorities. During the course of hearing, learned counsel for the Respondent has stated that the Appellant is bound by the statement of No Objection before this Court showing no objection to the respondent's travel abroad for the purpose of performing Umrah and has placed reliance on…Where a counsel or representative of the State makes a concession that travels beyond the bounds of their lawful mandate, or where the concession is inconsistent with a subsisting statutory or judicial command, equity cannot be pressed into service to perpetuate what the law itself prohibits…"

33. Now, although the Court there was concerned with a somewhat different (though still related) situation, the principle laid in *Sheikh Rasheed Ahmed* guides this Court to another important concept, which is a concession or admission being unauthorised. Must such a concession or admission be allowed to stand? In my view, the answer to that must be in the negative. I say so because of the conceivable mandate of any advocate for

their client. Their mandate does legitimately extend to making conceding statements and admissions that are consistent with the record, not false nor in ignorance of any legal right and which they, in their course of legal duty, genuinely find necessary to be made. However, I am quite clear in my mind that, when a client signs a vakalatnama for a counsel, that document does not tender an authorisation to make false or incorrect suggestions or admissions or to surrender the rights of a party without authorisation. And then there is the human aspect of the matter as well. More often than not, an advocate will be a human being, and it is not uncommon for humans to make mistaken or unintentional statements and claims which may not necessarily be correct. Therefore, the Court will be acting pedantically without carefully scrutinising an admission or statement by a party that plainly contradicts the record or the law.

34. An example of an absurd or incorrect admission against the facts and law is seen in *United Leather Exports through Haji Muhammad Iqbal and 4 others v National Bank of Pakistan through Branch Manager* 2005 CLD 1391 (Lahore). There, the counsel for the parties had made a conceding statement which was against established facts and sought to grant relief that was not granted by the decree under appeal. The Lahore High Court, for reasons I fully endorse, refused to accept that concession, observing that "merely on the statement of the learned counsel for the appellants, they cannot be compelled to pay the future mark-up, which, as noted above, was not granted to the bank at the time of passing of the decree."

35. This aspect was also dealt with in the appropriate manner by the Indian Supreme Court in *Himalayan Co-operative Group Housing Society v Balwan Singh* (2015) 7 SCC 373 (para 32) which synthesises the concept in the following manner (entirety may be read as emphasised; special emphasis added):

> "32. Generally, admissions of fact made by a counsel are binding upon their principals as long as they are unequivocal; where, however, doubt exists as to a purported admission, the court should be wary to accept such admissions until and unless the counsel or the advocate is authorised by his principal to make such admissions.

> *Furthermore, a client is not bound by a statement or admission which he or his lawyer was not authorised to make. A lawyer generally has no implied or apparent authority to make an admission or statement which would directly surrender or conclude the substantial legal rights of the client unless such an admission or statement is clearly a proper step in accomplishing the purpose for which the lawyer was employed. We hasten to add neither the client nor the court is bound by the lawyer's statements or admissions as to matters of law or legal conclusions. Thus, according to generally accepted notions of professional responsibility, lawyers should follow the client's instructions rather than substitute their judgment for that of the client. We may add that in some cases, lawyers can make decisions without consulting the client. While in others, the decision is reserved for the client. It is often said that the lawyer can make decisions as to tactics without consulting the client, while the client has a right to make decisions that can affect his rights.*"

36. During arguments, Mr. Dileep J. Mullani relied on *Mirza Muhammad Saeed v Muhammad Akram Munir and others* 2001 YLR 919 (Lahore). In that case, the learned Lahore High Court was confronted with a case where a compromise was effected by a court on the basis of a statement by counsel. There, the case was as to compromise which according to settled principles of law (discussed by the Lahore High Court as well) is within the implied (or expressed) authority of counsel. The case was as to disposal of a suit by a specific mode, e.g. by compromise, but not as to statements and consent given without authority or acts of counsel tending to abandon the rights of parties. Thus, it will be seen that even the Lahore High Court observed as follows (para 6):

> "…In the present case the parties entered into a compromise. Counsel for the reaspondent/plaintiff made a statement that suit be decided by specific mode, which was within the scope of the authority conferred on the counsel by Wakalatnama. Therefore, it cannot be contended that authority had been delegated to the Local Commissioner."

As such, the case of *Mirza Muhammad Saeed* was on a different matter and distinguishable from what is before the Court presently.

37. In view of my discussion above, I hold that a client/party is not bound by the admissions made by their counsel which are not authorised, which are incorrect on point of fact or in ignorance of the legal right of their client, just as the same way the party personally is not liable to be bound by an admission made by them

against facts or legal rights. A clear and unequivocal admission by counsel made within the scope of counsel's authority may bind the client. It will not, however, be treated as conclusive where it is shown to have been made under a mistake of fact or law, contrary to established or overwhelming evidence, or without authority in a matter involving surrender of substantial legal rights.

38. I now turn to whether, in the present case, the admission by the learned Counsel for the Respondents as to the dispute on survey numbers was against facts or the legal rights of the Respondents. It will be seen that all three survey numbers were pleaded in the suit, and the ultimate prayer clauses was on all three survey numbers. The entire contest of the parties from the beginning up till this Court has remained as to all three survey numbers. The parties throughout their evidence remained steadfast on their entire claim generally and did not speak of any exclusion in or surrender of their claim. Subsequently, even the learned Additional District Judge dealt with the entire evidence wholistically without isolating himself to just one survey number; that will simply not possible because the evidence was on all three. The Respondents did not acquiesce to this observation and immediately acted upon the same by filing a review application. The only thing that is therefore in their way was the purported statement/admission by their counsel which on its face seeks to surrender their legal rights as to most of the land they have claimed from the beginning and which plainly contradicts the facts and the evidence available. Consequently, I am convinced that the isolated statement by the Counsel of the Respondents was probably a mistaken statement and even otherwise was against the established facts and legal rights of the Respondents and was not a binding admission.

39. This finally brings me to seeing whether a review application under s. 114 read with r. 1 of O. XLVII of the CPC lied in the circumstances. In *Faqir Muhammad Khan v Mir Akbar Shah* PLD 1973 SC 110, it was observed that failing to notice and follow binding judgments of the High Court and the Supreme Court would amount to an error apparent on the face of the record and would therefore make a review application amenable.

Subsequently, in *Land Acquisition Officer and Assistant Commissioner, Hyderabad v Gul Muhammad through Legal Heirs* PLD 2005 SC 311 it was observed that as follows (para 12; emphasis added):

> "12. From the above discussion it would appear that the learned Judge in Chambers of the High Court in appeal has misconstrued the provision of subsection (1) of section 25 of the said Act and has also misread the evidence on record, therefore enhancement of rate of compensation was made in violation of the principles of law and law laid down by this Court, consequently in review application the learned Judge in Chambers misconstrued the law and also misread the evidence and did not consider pleas raised before him which amounted to error floating on the surface of record, therefore impugned judgment dismissing the review applications cannot be sustained in law consequently the same is reversed so also the order passed in appeal and the appeals before us are also allowed with no order as to costs."

However, the position as to misreading or nonreading of evidence for the purposes of r. 1 of O. XLVII and s. 114 of the CPC has been explained in *Syed Ali Ahmed Shah v Syed Shoukat Hussain Shah and others* 2025 SCMR 361. The Supreme Court explained that the error floating on the record must be of such a nature as to satisfy consideration without reappraisal of evidence or re-examination of the case. In *Forte Pakistan (Pvt.) Ltd. v Azam Khan and 2 others* 2017 MLD 1049 (Sindh), a Division Bench of this Court observed as follows in defining what an "error apparent on the face of the record" is (para 14):

> "14. Furthermore, the term 'mistake or error apparent' does not extend to every erroneous decision, but by its very connotation signifies an error which is so evident that its detection does not require any detailed scrutiny and elucidation. An error which is not self-evident and has to be extracted from the record and detected by a process of reasoning can hardly be said to be an error apparent on the face of the record justifying the exercise of power under Order XLVII, Rule 1, C.P.C."

40. It is apparent on the face of the record that the learned Court below has completely ignored the law as to admissions and conceding statements as laid down by the courts including the Supreme Court. Rather, the learned Court below proceeded on an *ex facie* incorrect view that this Court can correct the error of the learned Court below. In my view, the learned Court below ought to

have exercised its review jurisdiction in the matter but it failed to do so because it did not avert to the settled principles or the self-evident facts of the case. In my view, the errors so committed are errors apparent on the face of the record and which cause miscarriage of justice. They are not matters of a different view of evidence nor something the learned Court below could have left for this Court to correct.

41. As such, the application for review filed by the Respondents ought to have been allowed and the learned Court below committed an error in law and fact in failing to do so. I therefore answer **Point No. 2** in the affirmative and I will be allowing the application for review as also R.A. No. S-134 of 2025.

42. For these reasons, these cases are disposed of in the following terms:

i) R.A. No. S-133 of 2025 filed by Government of Sindh and others is dismissed.

ii) R.A. No. S-134 of 2025 filed by Allah Dino through Legal Heirs and others is allowed as prayed.

iii) The impugned Judgment of the learned Additional District Judge is maintained subject to the following modification.

iv) The application under s. 114 read with r. 1 of O. XLVII of the CPC filed by the Respondents before the learned Additional District Judge is allowed as prayed and the error apparent on the face of the record, whereby Survey Nos. 620 and 7/3 were excluded, is allowed to be corrected and the judgment and decree should be read as being in respect of the entirety of the suit land. (For removal of any doubt, the suit is being decreed as prayed in terms of the impugned Judgment but in relation to all three survey numbers in respect of which it was filed, and not just Survey No. 847.)

v) There shall be no order as to costs in both cases. R&Ps may be returned.

JUDGE

Approved for reporting