# IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Civil Revision Appln. No. S-69 of 2021

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| Applicant(s) | : | 1) | Jamaluddin s/o Allah Dino (expired) Through his legal heirs: | |
| | | i. | Allah Dino | (son) |
| | | ii. | Abdul Hameed | (son) |
| | | iii. | Abdul Hakeem | (son) |
| | | iv. | Sanaullah | (son) |
| | | v. | Hafeezullah | (son) |
| | | vi. | Amanullah | (son) |
| | | vii. | Attaullah | (son) |
| | | viii. | Sajid Ali | (son) |
| | | ix. | Mst. Imamzadi | (widow) |
| | | 2) | Amiruddin son of Allah Dino | |
| | | 3) | Mohammad Sachal son of Allah Dino | |
| | | 4) | Gul Muhammad son of Allah Dino | |
| | | 5) | Mst. Zainab d/o Allah Dino (expired) *Through* her legal heirs: | |
| | | a) | Muhammad Mithal | (son) |
| | | b) | Mst. Sardaran Khatoon | (daughter) |
| | | 6) | Mst. Jamzadi d/o Allah Dino | |
| | | | All Muslims, adults, Dasti by caste, *Through* Mr. Tarique G. Hanif Mangi, Advocate | |
| | | | **V E R S U S** | |
| Respondents | : | 1) | Eido s/o Gul Muhammad (expired) *through* his legal heirs: | |
| | | i) | Mst. Sehat | (widow) |
| | | ii) | Talib Hussain | (son) |
| | | iii) | Mst. Sughran | (daughter) |
| | | iv) | Mst. Kaung | (daughter) |
| | | 2) | Talib son of Eidoo, *Through* Mir Shabbir Hussain Talupur, Advocate | |
| | | 3) | Belo @ Imam Ali *Through* his legal heirs: | |
| | | i) | Mst. Mehar Khatoon | (widow) |
| | | ii) | Wazeeran Khatoon | (daughter) |
| | | iii) | Nasiran | (daughter) |
| | | iv) | Shama Khatoon | (daughter) |
| | | v) | Rafia | (daughter) |
| | | vi) | Sajid Ali | (son) |
| | | vii) | Aijaz Ali | (son) |
| | | | All Muslims, adults, Dasti by caste, | |
| | | 4) | Mukhtiarkar (Revenue), Mirwah | |
| | | 5) | Province of Sindh, through Deputy Commissioner, Khairpur | |
| The State | : | | *Through* Mr. Ahmed Ali Shahani, Assistant A.G | |
| Date of hearing | : | | 24.10.2025 | |
| Date of Judgment | : | | 06.11.2025 | |

## JUDGMENT

***KHALID HUSSAIN SHAHANI, J.–*** This Court is seised of a Civil Revision Application under Section 115 of the Code of Civil Procedure, 1908, whereby

the applicants/legal heirs of the deceased Allah Dino seek to challenge, set aside, and quash the impugned Judgment and Decree dated the 29th day of March, 2021, passed by the learned Additional District Judge, Mirwah, wherein the learned Appellate Court, in disposing of Civil Appeal No.92 of 2013, allowed the said appeal and set aside the Judgment and Decree dated the 28th day of September, 2013, passed by the learned Senior Civil Judge, Mirwah, which had decreed the suit filed by the applicants against the respondents herein. The applicants have preferred the present Revision Application being aggrieved and dissatisfied with the impugned Judgment and Decree, which, according to the applicants, are not only contrary to law and established legal principles but are also based upon material misreading and non-reading of the evidence on record, manifest irregularities, and a complete failure on the part of the learned Appellate Court to appreciate the documentary evidence and the legal character of the applicants' case.

2. The applicants further contend that the order passed by the learned trial court was well-reasoned, legally sound, and grounded in the facts and circumstances of the case, and that the learned Appellate Court, in allowing the appeal and dismissing the suit of the applicants, has acted arbitrarily, capriciously, and without application of judicious mind, thereby causing grave miscarriage of justice. This Court is consequently moved to exercise its revisional jurisdiction under Section 115 of the Code of Civil Procedure for the purpose of correcting the errors apparent on the face of the impugned Judgment and Decree, which are of such a nature and magnitude as to warrant immediate intervention by this Court in its revisional jurisdiction.

3. Briefly, the facts leading to the filing of the present Civil Revision are that the applicants are the legal representatives and heirs of the deceased Allah Dino son of Tindo Khan Dasti. In the year 1998, the applicants filed a F.C. Suit No. 102 of 1998 (later renumbered as F.C. Suit No.101 of 2009), before the learned Senior Civil Judge, Mirwah, seeking reliefs of declaration of title,

possession, mesne profits, and permanent injunction against the respondents herein in respect of an agricultural property.

4. The suit property consisted of S. No.1150 (1-01) acres, and S.No.1151 (1-10), for a total area of (2-11) acres, situated in Deh Datto Dasti, Taluka Mirwah, District Khairpur. According to the applicants' version, this agricultural land was originally granted by the then Minister of the former Khairpur State vide order No. LG-442 dated the 5th day of January, 1938, to their predecessor in interest, namely the late Allah Dino, the elder of the applicants' father. According to the applicants' averments in the plaint, the malkana charges (consideration money) in full payment for the said grant were duly paid to the treasury department of the former Khairpur State vide letter No.T-1042 issued by the state treasury at Khairpur, dated the 11th day of May, 1938. Following the payment of the consideration money and in accordance with the grant order, the applicants state that a certificate of acceptance of the grant, commonly known as the "Form-A", was issued in favour of the grantee, namely Allah Dino. Subsequently, and in compliance with the governmental procedure, a Transfer of Ownership (T.O.) Form was also issued in favour of the grantee, which formally recognized the ownership rights of Allah Dino over the suit property. The applicants further aver that subsequent to the issuance of the T.O. Form, a mutation entry was recorded in the official revenue record of Deh Datto Dasti, wherein the suit property was formally registered in the name of Allah Dino. The applicants state that the said mutation entry bearing Entry No.456 (or 52, as variously mentioned in the records) was recorded in Deh Form-VII (also referred to as Form-III) of Deh Datto Dasti, and this entry has remained intact and unchallenged since the year 1967-68 onwards. The applicants further aver that the suit land, which was originally in an uncultivable condition comprising sandy dunes and thorny bushes, was improved and brought under cultivation by the applicants and their predecessors at considerable expense and labour. Through their efforts and investment, the applicants state that they have maintained and

improved the suit land, and have been in peaceful possession and enjoyment of the same ever since the grant was made to their predecessor Allah Dino.

5. However, according to the applicants, about three years prior to the filing of the suit in 1998, the respondents herein, namely Eido and his associates, acting malafidly and dishonestly, trespassed upon the suit land of the applicants and forcibly occupied the same, thereby dispossessing the applicants of their lawful possession. The applicants state that they approached the respondents and requested them to vacate the suit land, but the respondents kept the applicants in false hopes and made empty promises, and ultimately refused to vacate the property. The applicants further aver that they approached the local revenue authorities and other civic bodies seeking relief, but all such efforts proved futile. In these circumstances, the applicants found it necessary to approach the learned court and filed the suit on or about the 1st day of April, 1998 for the reliefs hereinabove mentioned.

6. The complete history of the litigation in this case, which spans more than two decades, is of considerable importance and significance to the present Revision Application, as it demonstrates the consistent position of the applicants and the well-reasoned approach taken by the learned trial court in the first instance. It is, therefore, necessary to trace the entire judicial history of this matter from its inception.

*i.* ***First Instance and Initial Decree (1999):*** *The suit, being F.C. Suit No. 102 of 1998, was filed before the learned Senior Civil Judge, Mirwah, in the year 1998. The applicants, as plaintiffs in the suit, placed their case on record by adducing evidence through their witnesses. The learned trial court, after hearing both parties and carefully considering the evidence on record, passed a comprehensive Judgment and Decree on the 27th day of March, 1999, whereby the learned trial court decreed the suit of the applicants in their favour. The learned trial court found that the applicants had successfully proved their right and title over the suit land, and that the respondents were in unlawful possession of the suit property. Accordingly, the learned trial court directed the respondents to handover the vacant possession of the suit land to the applicants within a specified period, and further directed the respondents to pay mesne profits at the rate of Rupees 2,000 per annum for the period of three years prior to the filing of the suit and thereafter until the possession was handed over to the applicants.*

ii. ***First Appeal and Remand (2007):*** *Aggrieved by the Judgment and Decree of the learned trial court dated the 27th day of March, 1999, the respondents preferred an appeal, being Civil Appeal No. 25 of 1999, before the learned District Judge, Khairpur. The said appeal was, however, transferred on administrative grounds to the learned 1st Additional District Judge, Khairpur. The learned Appellate Court, after hearing the parties and considering the matter, delivered its judgment on the 14th day of February, 2007, and passed a decree on the 16th day of February, 2007. The learned Appellate Court, on that occasion, allowed the appeal and set aside the Judgment and Decree of the learned trial court with the direction that the case be remanded back to the learned trial court for re-determination of the matter. Significantly, the learned Appellate Court directed the learned trial court to frame an additional issue, specifically to determine "Whether the suit of the plaintiffs is time barred", and to provide an opportunity to both parties to adduce their evidence on the said additional issue, and thereafter to decide the matter afresh in accordance with law.*

iii. ***Critical Development: Reconstitution of Record after Assassination of Benazir Bhutto (2009):*** *A most significant and tragic event occurred between the first appeal and the remand of the case. After the assassination of the then Prime Minister Mohtarama Benazir Bhutto on the 27th day of December, 2007, there was considerable disruption in the functioning of the courts and government institutions. During this period, the record and papers (R & Ps) of the case were reportedly burnt in circumstances that have never been fully explained. It was only on the 5th day of January, 2009, that the learned trial court passed an order for the reconstitution of the case file, vide diary dated the 5th day of January, 2009. This critical fact is of considerable importance and relevance to the present Revision Application, as the said order dated the 5th day of January, 2009, was never challenged by any party before any forum, including revision or appeal. The fact that neither the respondents nor any other interested party sought to challenge the reconstitution order suggests an acceptance of the reconstituted record by all parties.*

iv. ***Fresh Framing of Issues and Evidence (2011-2013):*** *Following the reconstitution of the record, the learned trial court, in compliance with the direction of the learned Appellate Court in the 2007 order, framed a comprehensive set of additional issues, as recorded vide order dated the 21st day of December, 2011. These additional issues included the question of limitation and the timebared nature of the suit, as well as several other substantive issues regarding the title, ownership, and possession of the suit land. The record clearly shows that both parties were provided with a fresh opportunity to adduce their evidence on these additional issues. The applicants, through their witnesses including Sardar Ali Shar (the Tapedar or Revenue official of Deh Datto Dasti), produced critical documentary evidence before the learned trial court. These documents included attested copies of the mutation record (Form-III/Form-VII) showing Entry No.52 or Entry No.456 in the name of Allah Dino, which demonstrated that the suit land had been formally recorded in the revenue records in favour of the applicants' predecessor.*

7. Furthermore, the applicants produced the original grant order (letter No. LG-442 dated the 5th day of January, 1938), the treasury letter confirming

payment of malkana charges (letter No.T-1042 dated the 11th day of May, 1938), the certificate of acceptance (Form-A), and the Transfer of Ownership Form (T.O. Form). These original documentary pieces of evidence, which bore the official seals and authentication of the relevant government departments, were placed before the learned trial court. Significantly, the record shows that these critical documents were produced without any objection from the respondents' side, and crucially, the respondents did not challenge the authenticity of these documents during the cross-examination of the applicants' witnesses.

i. ***Second Judgment and Decree by Trial Court (September 2013):*** *After hearing the parties afresh, examining the evidence on the additional issues, and considering all the materials placed before it, the learned Senior Civil Judge, Mirwah, passed a second Judgment and Decree on the 28th day of September, 2013, whereby the learned trial court again decreed the suit of the applicants in their favour. The learned trial court, on this occasion, conducted a thorough analysis of the evidence, examined the documentary proof in light of the law on evidence, and arrived at findings which were supported by reasoning and legal principles. The learned trial court found that the applicants had convincingly and conclusively established their right and title over the suit land through authentic documentary evidence. The learned trial court further found that the respondents were in unlawful possession of the suit property, and that the applicants were entitled to the relief of possession and mesne profits.*

ii. ***Second Appeal and Reversal by Appellate Court (2021):*** *Notwithstanding the well-reasoned and carefully considered judgment of the learned trial court, the respondents preferred another appeal, being Civil Appeal No.92 of 2013, before the learned Additional District Judge, Mirwah. The record reveals that on the 2nd day of November, 2013, the respondents filed their memorandum of appeal. The learned Appellate Court heard the parties and examined the record available in the appellate file. However, on the 29th day of March, 2021, the learned Appellate Court, in a judgment that has been described by the applicants as hasty, slip-shod, and mechanical in nature, allowed the appeal and set aside the Judgment and Decree of the learned trial court dated the 28th day of September, 2013, thereby dismissing the suit of the applicants. This unexpected reversal, in the face of the consistent findings of the learned trial court made on two separate occasions, and in the face of undisputed documentary evidence, forms the subject matter of the present Revision Application.*

8. The learned Advocate for the Applicants, Mr. Tariq G. Hanif Mangi, has presented a comprehensive and forceful case in support of the present Civil Revision Application. The principal arguments advanced by the learned advocate on behalf of the applicants are as follows:

i) **Consistent Judicial Finding:** The learned advocate has emphasized that the suit of the applicants has been decreed by the learned trial court on not one but two separate occasions, namely on the 27th day of March, 1999, and again on the 28th day of September, 2013. The learned advocate has pointed out that in both instances, the learned trial court, after careful examination of the evidence and the law, arrived at findings in favour of the applicants. The learned advocate has argued that the consistency of these findings across two separate trials, conducted at different points in time and under different circumstances, strongly suggests that the evidence is reliable, credible, and supportive of the applicants' case. The learned advocate has further argued that the learned Appellate Court, in the impugned judgment, has failed to appreciate this consistent pattern of judicial findings and has instead chosen to substitute its own view for that of the learned trial court without adequate justification or reasoning.

ii) **Authenticity and Probative Value of Documentary Evidence:** The learned advocate has laid considerable emphasis on the documentary evidence produced by the applicants before the learned trial court. The learned advocate has submitted that the applicants produced original or certified copies of the government orders, treasury letters, and revenue records which bear official seals, authentication marks, and signatures of the relevant government officials. These documents include the grant order No.LG-442 dated the 5th day of January, 1938, the treasury letter dated the 11th day of May, 1938, the Form-A certificate of acceptance, and the T.O. Form. The learned advocate has argued that these documents are not mere photostat copies of dubious provenance, but rather are official documents issued by the government of the then Khairpur State, and they carry the stamp of governmental authority and authenticity.The

learned advocate has further submitted that the mutation record (Form-III or Form-VII) showing Entry No.52, which was produced by the Tapedar, Sardar Ali Shar, constitutes an official government record which is presumed to be correct unless and until disproved by credible and reliable evidence. The learned advocate has pointed out that no such disproving evidence was ever produced by the respondents, and that the respondents were given ample opportunity to challenge the authenticity of these documents but failed to do so. The learned advocate has argued that the learned trial court was correct in accepting and relying upon these documents, and that the learned Appellate Court has erred in discarding them without any valid legal basis.

iii) **Lack of Challenge to Documentary Evidence:** A particularly compelling argument advanced by the learned advocate is that the respondents never seriously challenged the authenticity or validity of the documentary evidence produced by the applicants. The learned advocate has pointed out that during the cross-examination of the applicants' witnesses, specifically during the cross-examination of Jamaluddin (the plaintiff/applicant), the respondents' counsel did not put any searching questions to suggest that the grant order was fabricated, that the treasury letter was false, or that the mutation record was a managed document. Most significantly, the learned advocate has highlighted that the respondent, Talib Hussain, when examined as a defence witness, made an admission which is of considerable importance. According to the learned advocate, Talib Hussain, in his deposition at Exhibit 11, admitted that "in the year 1938, the father of the plaintiffs/applicants was the grantee of the suit land, and we have not challenged that grant of the plaintiffs/applicants." This admission by the respondent's own

witness constitutes powerful evidence in support of the applicants' case, and the learned Appellate Court has failed to give it due weight or consideration.

iv) **Non-reading and Misreading of Evidence:** The learned advocate has vehemently criticized the learned Appellate Court for what he describes as non-reading and misreading of the evidence on record. The learned advocate has submitted that the learned Appellate Court, in its impugned judgment, has ignored or misconstrued critical portions of the evidence, particularly the deposition of Sardar Ali Shar (the Tapedar) who testified at Exhibit 05 and produced the vital revenue record at Exhibit 05/A. The learned advocate has argued that the learned Appellate Court has failed to appreciate the significance of the fact that the Tapedar, an official government functionary who has no interest in the dispute, produced official revenue records showing that Survey Numbers 1150 and 1151 are recorded in the name of Allah Dino.

v) **Burden and Standard of Proof:** The learned advocate has submitted that in civil suits, the burden of proof lies upon the plaintiff/applicant to prove his case on the preponderance of probabilities. The learned advocate has argued that the applicants have successfully discharged this burden by producing authentic documentary evidence, by examining credible witnesses including a government official (the Tapedar), and by the absence of credible disproving evidence on the part of the respondents. The learned advocate has submitted that the learned Appellate Court, in setting aside the judgment of the learned trial court, has improperly shifted the burden of proof or has applied an incorrect standard of proof.

vi) **Proper Production of Secondary Evidence:** The learned advocate has addressed the respondents' objection regarding secondary

evidence. The learned advocate has submitted that the applicants properly followed the procedure laid down in the Indian Evidence Act, 1872, for the production of secondary evidence. The learned advocate has pointed out that while photostat copies were produced, they were accompanied by the oral testimony of the official Tapedar who had knowledge of the original records and could vouch for their accuracy. Furthermore, the learned advocate has submitted that the respondents did not object to the admission of these documents during the trial, which suggests an acceptance or acquiescence to their admission.

vii) **The Critical Admission of Respondents:** The learned advocate has emphasized that the cross-examination statement of Talib Hussain, wherein he admitted that "it is correct to suggest that in the year 1938, the father of the plaintiffs/applicants was the grantee of the suit land and we have not challenged that grant of the plaintiffs/applicants," is of utmost significance. This admission effectively concedes the very crux of the applicants' case, namely that the predecessor of the applicants was granted the suit land in the year 1938. The learned advocate has argued that this admission, coming as it does from the respondent's own witness, demolishes the respondents' defence and establishes the applicants' right and title beyond any reasonable doubt.

viii) **The Jurisprudence on Concurrent Findings:** The learned advocate has submitted that while concurrent findings of the two courts below are not conclusive, they do carry significant weight and evidentiary value. The learned advocate has cited established jurisprudence to the effect that when two courts, both of which have heard the witnesses, have arrived at the same conclusion, this Court should not disturb those findings unless it is satisfied that the findings

are perverse or based on a complete misunderstanding of the evidence. The learned advocate has submitted that the impugned judgment of the learned Appellate Court does not meet the criteria for interfering with concurrent findings, as it does not demonstrate that the findings of the learned trial court are perverse or based on misunderstanding.

ix) **Fatal Defects in the Appellate Court's Judgment:** The learned advocate has identified several fatal defects in the reasoning of the learned Appellate Court. The learned advocate has submitted that the learned Appellate Court has failed to appreciate the evidence in its proper context, has ignored admitted facts, has failed to consider the probative value of the revenue records, and has substituted its own opinion for the well-reasoned findings of the learned trial court. The learned advocate has argued that the judgment of the learned Appellate Court appears to be based on surmises and conjectures rather than on a careful analysis of the evidence.

x) **The Limitation Issue:** The learned advocate has submitted that even if the limitation issue were to be considered, the suit is not time barred. The learned advocate has argued that the suit for declaration and possession is not subject to a time bar in the same manner as a suit for recovery of specific movable property. The learned advocate has submitted that the cause of action accrued to the applicants when the respondents forcibly occupied the suit land approximately three years before the filing of the suit. The learned advocate has argued that the applicants' statement in their plaint clearly indicates the date from which the dispossession occurred, and that the suit was filed within a reasonable time thereafter.

9) Mr. Talpur, learned counsel for the private respondents, has advanced the following arguments in opposition to the Revision Application:

i) **The Photostat Documents:** The learned advocate for the respondents has argued that the documents produced by the applicants are not original documents but rather photostat copies, and that no official from the state department was examined to support these documents through secondary evidence. The learned advocate has submitted that under theQanun-e-Shahadat Order, 1984, the production of secondary evidence requires proper foundation and examination of relevant official witnesses. The learned advocate has contended that the applicants failed to comply with these procedural requirements, and therefore the documents should not have been relied upon by the learned trial court.

ii) **Affiliation with Eidu:** The learned advocate for the respondents has submitted that the property actually belongs to one Eidu (identified as respondent No. 20 or a predecessor), and that the applicants have failed to establish any relationship or connection to the original grantee. The learned advocate has argued that even if it be conceded that a grant was made in 1938, the applicants have not conclusively established that they are the legal heirs or successors of the original grantee.

iii) **Lack of Confidence-Inspiring Evidence:** The learned advocate for the respondents has argued that the evidence of the applicants, particularly the plaintiff/applicant, is not confidence-inspiring. The learned advocate has submitted that the oral testimony is vague, non-specific, and lacks the particularity required to establish title to immovable property. The learned advocate has contended that the applicants have failed to satisfactorily explain the circumstances under which they came into possession of the suit land or the manner in which they have maintained possession thereof.

iv) **Long Possession of Respondents:** The learned advocate for the respondents has emphasized that the respondents have been in continuous possession of the suit land for a considerable period of time. The learned advocate

has submitted that according to the respondents' version, they have been in possession for at least forty years, and that such prolonged possession, in the absence of a clear title in the applicants, would ordinarily vest rights in the respondents. The learned advocate has argued that the applicants have failed to account for the respondents' long period of possession or to provide a satisfactory explanation for the delay in filing the suit.

10) The learned Advocate General or the learned Deputy Attorney General representing the official respondents (respondent No. 4 and 5, being the Mukhtiarkar/Revenue and the Government of Sindh through the Deputy Commissioner) submitted that the State does not oppose the dismissal of the application and that the State's position is primarily neutral. However, the learned AAG made the following submissions:

i. **Regarding the Schedule:** The learned AAG submitted that the schedule of the suit property was announced, but no formal notification was issued by the government. This submission suggests that while the property may have been scheduled or mentioned in official records, the full governmental procedure for its formal alienation or grant may not have been completed in all respects.

ii. **Non-Examination of Official Witnesses:** The learned AAG pointed out that no official from the Department of State or the Land Department was examined by the applicants to support and authenticate the documentary evidence relating to the alleged grant in 1938. This procedural lacuna was raised as a significant deficiency in the applicants' case.

11) Having carefully considered the memorandum of application, the supporting affidavits, the certified copies of the impugned judgment and decree, and all the material placed before this Court, and having applied to the legal principles and authorities cited by the learned advocates, I have arrived at certain conclusions which I shall now set forth in detail. It is well-established that this

Court's revisional jurisdiction under Section 115 of the Code of Civil Procedure is not an appeal in disguise, and this Court is not ordinarily expected to interfere with findings of fact recorded by the courts below merely because it might have reached a different conclusion. However, it is equally well-established that where there are material irregularities, manifest errors of law, or conclusions that are so clearly erroneous that they border on perversity, this Court is competent and indeed obliged to intervene in its revisional jurisdiction. Furthermore, where concurrent findings of the two courts below are sought to be overturned by an appellate court, this Court would closely scrutinize such reversal to ensure that it is grounded in solid legal reasoning and evidence-based analysis.

12) A well-established principle of law is that where two courts below, both of which have had the opportunity to hear the witnesses and see their demeanour, have arrived at concurrent findings of fact, such findings carry considerable weight and significance, and should not be lightly disturbed. In the present case, the learned trial court has decreed the suit of the applicants on two separate occasions, namely in 1999 and in 2013. On both occasions, the learned trial court carefully examined the evidence, considered the arguments of both parties, and arrived at findings in favour of the applicants. The fact that the learned Appellate Court has reversed these concurrent findings without, in my view, adequate justification or reasoning, is a matter of serious concern and warrants revisional intervention.

13) The evidence placed before the learned trial court included original grant orders, treasury letters, Form-A certificates, and Transfer of Ownership forms, all bearing official seals and signatures of government officials of the former Khairpur State. The question of whether these documents are original or secondary is a technical legal matter, but the substance of the evidence is what assumes importance. The applicants have produced these documents through the testimony of an official government functionary, namely the Tapedar of Deh Datto Dasti, who had direct knowledge and custodianship of the original revenue

records. The Tapedar produced the official mutation records (Form-III/Form-VII) which showed that Survey Numbers 1150 and 1151 were recorded in the name of Allah Dino, the predecessor in interest of the applicants.

14) Under the *Qanoon-e-Shahadat* Order & Evidence Act, 1872, evidence may be given in various forms, including primary evidence (original documents) and secondary evidence (copies of documents). While secondary evidence ordinarily requires proper foundation and examination of relevant witnesses who have knowledge of the original, the law also recognizes that once secondary evidence is properly admitted and no serious objection is raised to its admission, it acquires probative value. In the present case, the documents were produced without objection during the trial, and significantly, the respondents did not challenge their authenticity or validity during the cross-examination of the applicants' witnesses.

15) A most significant factor which operates in favour of the applicants is the admission made by Talib Hussain, the defence witness examined for the respondents, wherein he stated in his deposition: "*It is correct to suggest that in the year 1938, the father of the plaintiffs/applicants was the grantee of the suit land and we have not challenged that grant of the plaintiffs/applicants."* This admission, made by the respondent's own witness, is of extraordinary significance. By making this admission, the respondent has essentially conceded the very foundation of the applicants' case, namely that the applicants' predecessor, Allah Dino, was granted the suit land in the year 1938 by the then Minister of Khairpur State. Once this fact is admitted, the entire edifice of the respondents' defence crumbles, as the respondents' primary contention has always been that the land is government property and that the applicants have no title or right to it.

16) In civil suits, the burden of proof lies upon the plaintiff to prove his case on the preponderance of probabilities, that is to say, the court must be satisfied that it is more probable than not that the plaintiff's version is correct.

The applicants have produced documentary evidence backed by the testimony of both an official government functionary and the applicants themselves. They have established that a grant was made to their predecessor in 1938, that the consideration was paid, that the documents of ownership were issued, and that the property was recorded in the official revenue records. Most importantly, all of this has been admitted or at least not seriously challenged by the respondents.

17) On the other hand, the respondents have merely asserted that the property is government property and that they have been in possession for a long time. They have produced no documentary evidence to support their version. They have produced no government order or notification depriving the applicants' predecessor of the grant or cancelling the allocation. They have produced no evidence to suggest that the applicants' documents are fabricated or that the grant was annulled or cancelled.

18) The learned Appellate Court appears to have given considerable weight to the limitation issue. However, this Court finds that the limitation issue, while important, does not operate against the applicants in the manner suggested by the learned Appellate Court. In suits for declaration and possession, the limitation period begins to run from the date on which the cause of action accrues, which in the present case is the date on which the applicants were dispossessed of the suit land by the respondents. According to the pleadings, this dispossession occurred approximately three years before the filing of the suit in 1998. The applicants clearly pleaded this fact, thereby providing sufficient information regarding the date from which the limitation period would commence. The suit was filed in 1998, which would be within the period of limitation prescribed under Section 144 of the Limitation Act, 1963, which prescribes a period of twelve years for suits concerning immovable property.

19) The learned Appellate Court has suggested that the suit might be barred by the principle of res-judicata. However, this ground also does not appear to be well-founded. While there may have been an earlier suit (Suit No. 40/2007)

that was dismissed, the present suit is based on a well-pleaded cause of action with full particularity regarding the date of dispossession and the circumstances leading to the filing of the suit. The earlier dismissal order, which the respondents claim operates as res-judicata, was not produced or properly explained in the record, and therefore this issue cannot be decided against the applicants on the basis of surmises.

20) This Court notes with concern and significance that following the assassination of Benazir Bhutto and the destruction of the court records, the case file was reconstituted on the 5th day of January, 2009. This reconstitution order was never challenged by any party before this time. This fact assumes considerable importance because it demonstrates that even the respondents, who had every incentive to challenge the reconstitution if they believed it was wrongful, did not do so. The fact that the respondents remained silent on this issue suggests an acceptance or acquiescence to the reconstitution and to the restored record.

21) Revenue records, including mutation entries and forms, carry considerable evidentiary weight in property disputes. These records are ordinarily presumed to be correct and can only be displaced by credible and reliable evidence. In the present case, the mutation entry showing Survey Numbers 1150 and 1151 in the name of Allah Dino has not been seriously challenged by the respondents. The respondents have not produced any government order cancelling or modifying this entry. The respondents have not examined any revenue official to suggest that the entry is incorrect or fraudulent. In the absence of such disproving evidence, the mutation entry stands as strong evidence in support of the applicants' title.

22) The production of the Form-A (certificate of acceptance) and the T.O. Form (transfer of ownership) by the applicants constitutes additional and corroborating evidence of their right and title. These forms are ordinarily issued only after the consideration money has been paid and all formalities have been

completed. The fact that these forms were issued in favour of Allah Dino, the predecessor of the applicants, is strong evidence that the grant was valid and that the ownership was properly transferred. While it may have been desirable for the applicants to examine an official from the Department of State to testify regarding the grant order, this is not an absolute requirement. The applicants have produced the documentary evidence itself, which bears the official seal and signature. The testimony of the Tapedar, who is an official government employee, provides additional official backing to the evidence. The respondents have not raised any credible objection to the non-examination of other officials, and indeed the respondents themselves have not examined any government official to support their counter-version.

23) Upon a careful reading of the impugned judgment of the learned Appellate Court, this Court is compelled to observe that the learned Appellate Court has failed to properly appreciate and address the significant pieces of evidence placed before the learned trial court. The learned Appellate Court appears to have adopted a mechanical approach, picking out certain observations or perceived weaknesses in the trial court's reasoning, without engaging in a thorough and meaningful analysis of the entire body of evidence. Notably, the learned Appellate Court has failed to specifically address or explain how it comes to the conclusion that the applicants' documents are fabricated or managed, despite the admitted fact that the respondent Talib Hussain acknowledged the grant of 1938.

24) The principle of law is well-established that evidence which is not challenged during cross-examination is ordinarily accepted as truthful. In the present case, the applicants' witnesses testified regarding the grant of 1938, the payment of consideration, and the issuance of the documents. During the cross-examination, the respondents did not seriously challenge these facts or suggest alternative versions. This absence of challenge amounts to an acceptance of the applicants' version regarding these facts. A judgment, to be valid and upheld,

must be based on sound reasoning that is apparent on the face of the judgment. The reasoning must logically connect the facts established in evidence to the legal conclusions reached. The reasoning must not be arbitrary, capricious, or based on surmises and conjectures. In the present case, the impugned judgment of the learned Appellate Court appears to lack this quality of sound reasoning. The learned Appellate Court states that the trial court "only relied upon the oral version of one plaintiff/respondent without corroboration of any authentic document," yet this statement is patently contrary to the record, which shows that the applicants produced extensive documentary evidence. This type of mis-statement or mischaracterization of the evidence suggests that the judgment was not based on a careful analysis of the record.

25) Government records, particularly revenue records, enjoy a special status in evidence law. They are presumed to be accurate and truthful unless and until contradicted by credible evidence. In the present case, the mutation entry showing the suit land in the name of Allah Dino is a government record created by the revenue authorities. This record has remained intact and unchallenged for over seventy years. The respondents have produced no counter-evidence, no government order cancelling or modifying this entry, and no credible explanation for how this record could have been created or maintained if the grant to Allah Dino never occurred. The suit land, measuring (2-11) acres and situated in Deh Datto Dasti in Taluka Mirwah, District Khairpur, appears to be agricultural land of some value. The applicants have averred that they improved this land by bringing it under cultivation, thereby enhancing its value. This fact, combined with the long delay in the respondents' occupation and the applicants' apparent non-vigorous pursuit of remedies immediately after dispossession, is not unusual in rural property disputes in Sindh and does not necessarily operate against the applicants' title.

26) Reviewing the chronology of events, we have:

- *5th January 1938: Grant order issued by Minister of Khairpur State*
- *11th May 1938: Payment of malkana charges and issuance of Form-A*

- *1967-68: Mutation entry made in the revenue record*
- *1995 (approximately): Alleged dispossession by respondents*
- *27th March 1999: First judgment and decree by learned trial court in favour of applicants*
- *14th February 2007: First Appellate Court allows appeal and remands case*
- *5th January 2009: Reconstitution of case record (never challenged)*
- *28th September 2013: Second judgment and decree by learned trial court in favour of applicants*
- *29th March 2021: Impugned judgment allowing respondents' appeal and dismissing suit*

27) This chronology demonstrates the seriousness and consistency of the applicants' claim across multiple decades and through multiple judicial proceedings.

28) After a thorough examination of the entire record, the evidence, and the arguments presented by all parties, this Court has reached the firm conclusion that the impugned Judgment and Decree dated 29th day of March, 2021, passed by the learned Additional District Judge, Mirwah, are unlawful, unjust, and based upon material irregularities and errors of law. The judgment is characterized by a failure to appreciate the evidence, a misreading and non-reading of the testimony and documents on record, and a complete disregard for the weight and probative value of the government records and admissions made by the respondents' own witnesses.

29) The learned trial court's findings, made on two separate occasions across a span of fourteen years, that the applicants have established their right and title to the suit land and that the respondents are in unlawful possession, are findings which are well-grounded in evidence, properly reasoned, and legally sound. These concurrent findings deserve respect and should not have been set aside by the learned Appellate Court without compelling justification, which has not been provided. The applicants have proved their case through reliable documentary evidence backed by the testimony of credible witnesses, including an official government functionary. The respondents have failed to produce credible counter-evidence. Most significantly, the respondents' own witness has

admitted the fundamental fact that the applicants' predecessor was granted the suit land in the year 1938.

30) Therefore, in the interest of justice, equity, and fair play, and to prevent the miscarriage of justice that would result from allowing the impugned judgment to stand, this Court is constrained to intervene in its revisional jurisdiction. Consequently, this Court allows present Civil Revision Application No. S-69 of 2021 filed by the applicants; sets aside the impugned Judgment and Decree dated 29th day of March, 2021, passed by the learned Additional District Judge, Mirwah, in Civil Appeal No.92 of 2013; restores and maintains the Judgment and Decree dated the 28th day of September, 2013, passed by the learned Senior Civil Judge, Mirwah, whereby the suit of the applicants for declaration of title, possession, mesne profits, and permanent injunction was decreed in their favour; directs that the respondents shall handover the vacant possession of S.No.1150 (1-01) and 1151 (1-10), total (2-11) acres, situated in Deh Datto Dasti, Taluka Mirwah, District Khairpur, to the applicants within a period of thirty (30) days from the date of receipt of this order; directs that the respondents shall pay mesne profits at the rate of Rs.2,000 (Two Thousand) per annum to the applicants for the period of three years prior to the filing of the suit and thereafter at the same rate until the vacant possession of the suit land is handed over to the applicants; sets at liberty the applicants to approach the court of the learned Senior Civil Judge, Mirwah, for the execution of the decree and realization of the mesne profits in accordance with law; directs that no costs be awarded to either party, as this Court finds that the litigation has been protracted due to the need for clarification of rights and interests in the suit property; directs that copies of this order shall be sent to the learned Senior Civil Judge, Mirwah, and the learned Additional District Judge, Mirwah, for their information and for taking appropriate action in accordance with law.

**J U D G E**