

IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
LARKANA

Civil Revision Application No.S-57 of 2019

Before:
Mr. Justice Ali Haider 'Ada'.

Applicants:

Mehboob Ali and 4 others, *through* Mr. Habibullah G. Ghouri, Advocate.

Respondents:

Ghulam Rasool, through his legal heirs, *through* Mr. Ghulam Dastagir Shahani, Advocate.

Official Respondents:

S.H.O Police Station Mahi Markol and others, *through* Mr. Abdul Waris Bhutto, Assistant Advocate General Sindh.

Constitution Petition No.S-335 of 2025

Petitioners:

Mehboob Ali and 4 others, *through* Mr. Habibullah G. Ghouri, Advocate.

Respondents:

Ghulam Rasool, through his legal heirs, *through* Mr. Ghulam Dastagir Shahani, Advocate.

Official Respondents:

S.H.O Police Station Mahi Markol and others, *through* Mr. Abdul Waris Bhutto, Assistant Advocate General Sindh.

Date of Hearing : 28.09.2026.

Date of Order : 28.09.2026.

Date of Reasons : 02.10.2026.

JUDGMENT

Ali Haider 'Ada', J.- Through Civil Revision Application No.S-57 of 2019, the applicants assailed the impugned Judgment and Decree dated 29.06.2019, passed by the learned II-Additional District Judge, Kamber (appellate Court), in Civil Appeal No.19/2018, whereby the learned appellate Court allowed the appeal and set aside the judgment and decree dated 10.03.2018, passed by the learned Senior

Civil Judge, Kamber (trial Court), in F.C. Suit No.37/2011. The applicants, being aggrieved by the judgment and decree passed by the learned appellate Court, preferred the aforesaid Civil Revision.

2. However, Constitution Petition No.S-335/2025 was filed by the present applicants challenging the execution proceedings initiated in pursuance of the judgment and decree passed by the learned appellate Court. On 22.09.2025, this Court ordered that both matters be tagged together. Therefore, in pursuance thereof, this Court intends to decide both matters through this common judgment.

3. Respondent No.1, namely Ghulam Rasool, died during the pendency of the proceedings; consequently, his legal heirs were brought on record and are now respondents. They had instituted F.C. Suit No.37/2011 before the learned trial Court, with the main and primary prayer for declaration that they are the lawful owners of property measuring 20,625 square feet, situated at village Mahi Makol. According to them, the said property had been purchased by their ancestors through a registered sale deed dated 30.03.1932. The case of the applicants, however, was that the property in question was Asaish land and had been used for religious activities.

4. The written statement was filed by the present applicants as defendants, wherein they relied upon a Bakhshishnama relating to the religious place along with other documents. The learned trial Court, after hearing the parties, framed the following issues, which are reproduced hereunder:-

1. Whether plaintiff is owner of the suit property by virtue of inherited and is in physical possession, having three shops, houses, hellor (Rice mill) and running business over suit property since forefather?

2. Whether defendants No.1 to 5 have any right, title or locus standi over suit property i.e. about 20625 square feet, situated at village Mahi Makool?

3. Whether defendants No.1 to 5 or any of them are/is in physical possession of suit property?

4. Whether no cause of action accrued to the plaintiff for filing the present suit and same is not maintainable under the law?

5. Whether plaintiff is entitled for relief claimed?

6. What should the decree be?

5. After framing of the issues, respondent No.1, namely Ghulam Rasool, entered the witness box and produced the decision of the Revenue hierarchy as well as the original registered sale deed, wherein the transaction had been described under the heading of "Moat Anjam". Thereafter, one Mujahid Ali and one Punhal were examined on behalf of the respondents. The applicants, being defendants, also entered into the witness box and produced a Bakhshishnama along with documents relating to previous litigation and applications. Thereafter, the applicants closed their side. However, the learned trial Court summoned the Sub-Registrar, Mushtaq Ahmed, as a Court witness, who appeared and produced the relevant record and documents.

6. Upon conclusion of the evidence, the learned trial Court, vide judgment and decree dated 10.03.2018, dismissed the suit filed by the respondents/plaintiffs. Being aggrieved by the said judgment and decree, the respondents preferred Civil Appeal No.19/2018 before the learned appellate Court. Vide judgment dated 29.06.2019, the learned appellate Court allowed the appeal and set aside the judgment and decree passed by the learned trial Court. In pursuance of the said appellate judgment, the learned trial Court proceeded with the execution proceedings. The present applicants have challenged the validity of the said judgment and decree passed by the learned appellate Court.

7. Learned counsel for the applicants contended that the sale deed relied upon by the respondents had not been properly

appreciated, as the transaction therein was described under the heading of “Moat Anjam”. He further contended that the property in question had already been reserved as Asaish land for religious activities. Therefore, according to learned counsel, the applicants had rightly challenged the claim of the respondents, as the property, having been reserved for religious purposes, could not lawfully be claimed by the respondents as their private property.

8. Conversely, learned counsel for the respondents/plaintiffs submitted that there is no material on record demonstrating that the property in question had ever been reserved for any public purpose or religious activity. He contended that, for decades, the property had remained recorded in the names of the ancestors of the respondents and that the registered sale deed clearly reflected a valid sale transaction. As regards the expression “Moat Anjam” appearing in the sale deed, learned counsel submitted that the document has to be read as a whole and not by isolating a particular expression. According to him, the contents of the document, when read in their entirety, clearly establish that it was a document evidencing a sale transaction and, therefore, conferred title upon the respondents’ predecessors.

9. Learned Assistant Advocate General, Sindh, supported the judgment of the learned appellate Court and submitted that the applicants had no title document in support of their claim over the property and, therefore, had no *locus standi* to challenge the respondents’ title. He further submitted that even before the learned trial Court, the applicants had failed to establish through any cogent material that the property had been reserved for a public purpose or religious activity. He contended that reappraisal of evidence is not ordinarily within the scope of revisional jurisdiction.

10. Heard and perused the material available on record.

11. It is essential to examine the legal framework governing land which is claimed to have been reserved or used as “Asaish” land. In this regard, **section 3 of the Sindh Land Revenue Act, 1967** is the relevant statutory provision. Sub-section (1) excludes from the operation of the Act, subject to the exceptions mentioned therein, land which is occupied as the site of a town or village and is not assessed to land revenue. More importantly, sub-section (2) expressly empowers the Collector, acting under the general or special orders of the Board of Revenue, to determine what lands are included within the site of a town or village and to fix and, from time to time, vary the limits thereof, while having due regard to all subsisting rights of the landowners.

12. Thus, where the applicants claim that the property in question constitutes “Asaish” land, in the sense of being part of the village site or Abadi Deh, such claim cannot be determined merely on the basis of its alleged use or description. The statutory scheme contemplates a determination by the competent Revenue authority as to whether the land falls within the site of the town or village and, if so, the extent and limits thereof. The question, therefore, is whether there exists any lawful determination, revenue record, demarcation or other competent material establishing that the property in question was included within the village site in terms of section 3(2) of the Act. The provision is reproduced hereunder for ready reference:

“3. Exclusion of certain land from operation of this Act. —

(1) Except so far as may be necessary for the record, recovery and administration of village-cess or for purposes of survey, nothing in this Act applies to land which is occupied as the site of a town or village, and is not assessed to land revenue.

(2) It shall be lawful for the Collector acting under the general or special orders of the Board of Revenue, to determine, for the purposes of this Act, what lands are included within the site of a town or village, and to fix and from time to time to vary the limits of the

same, regard being had to all the subsisting rights of the land-owners.

13. Furthermore, **section 56 of the Sindh Land Revenue Act, 1967** also recognizes the distinct status of land included within a village site by expressly excluding such land from liability to payment of land revenue. For ready reference, the relevant provision is reproduced hereunder:

56. Assessment of Land Revenue.— (1) *All land, to whatever purpose applied and wherever situate, is liable to the payment of land-revenue to Government, except —*

(a) such land as has been wholly exempted from that liability by special contract with Government, or by the provisions of any law for the time being in force;

(b) such land as is included in village site;

(c) such land as is included in Cantonment limits;

(d) land on which property tax under the Sindh Urban Immovable Property Tax Act, 1958 (West Pakistan Act V of 1958), is payable;

(e) waste and barren land not under cultivation for continuous period of not less than six years immediately before the date of notification of general assessment or re-assessment under section 59; provided that where any waste and barren land is brought under cultivation at any time after the date of such notification, such land shall not be liable to the payment of land-revenue for a period of six years from the date it is so brought under cultivation;

(f) land on the produce of which Ushr or contribution in lieu thereof has been charged in accordance with the Zakat and Ushr Ordinance, 1980.

(2) Land Revenue shall be assessed in Cash.

(3) Land-revenue may be assessed —

(a) as a fixed annual charge, payable in lump sum or by installments; or

(b) in the form of prescribed rates, per acre or other unit of area applicable to the area recorded as sown, matured or cultivated during any harvest or during any year:

Provided that land-revenue shall not be assessed in the form of sliding scales varying annually according to the market price of any agricultural produce prevailing during a specified period of the year.

14. For the reasons discussed above, the burden was upon the applicants, who claimed that the property in question constituted a village site or had been reserved for a public purpose, to establish such status through cogent and reliable material. Such claim could have been substantiated by placing on record any order or determination of the competent Revenue authority, revenue entries, demarcation proceedings, or other documentary evidence showing that the property had legally been included within the village site. However, no such exercise was undertaken by the applicants, nor was any cogent or reliable document produced to establish that the property in question was, in fact, part of the village site. This is particularly significant when the respondents relied upon a registered sale deed executed as far back as 1932 in support of their claim.

15. In the presence of the documentary evidence available on record, due weight has to be attached to the documents, particularly where such documents have remained unchallenged. Oral assertions, in the absence of supporting documentary evidence, cannot by themselves displace the legal effect of a duly registered document. The maxim that “a person may tell a lie, but a document cannot” may appropriately explain the evidentiary preference to be accorded to documentary evidence, subject always to its genuineness and legal admissibility. Reliance is placed upon the cases of **Mst. SAFIA versus Mst. BIBI 2005 MLD 646**, **MUNIR AHMAD versus MUHAMMAD SADDIQUE, 2005 MLD 364**.

16. Viewed in this perspective, the learned appellate Court rightly concluded on the issue in question. The learned appellate Court, therefore, committed no illegality or material irregularity in setting aside the judgment and decree of the learned trial Court and allowing the appeal. It is also well settled that the scope of revisional jurisdiction is limited and that a mere reappraisal or reassessment of evidence is not ordinarily warranted unless the findings of the

subordinate Court suffer from illegality, material irregularity, misreading or non-reading of material evidence, or are otherwise shown to be perverse.

17. For the foregoing reasons, the instant matters were already dismissed vide short order dated 28.09.2026, whereby Civil Revision No.S-57 of 2019 as well as the connected Constitution Petition No. S-335 of 2025 were dismissed and the judgment and decree passed by the learned appellate Court were maintained. These are the detailed reasons in support of the aforesaid short order.

JUDGE