

Judgment Sheet
**IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD**

R.A. No. 47 of 2016

**KHAN MOHAMMAD AND OTHERS
VERSUS
GOVERNMENT OF SINDH AND OTHERS**

Mr. Zain ul Abdin Sahito, Advocate for applicants
Mr. Irfan Ahmed Qureshi, Advocate for respondent No.7
Mr. Wali Muhammad Jamari, Assistant A.G. Sindh.

Date of Hearing : 13.3.2023
Date of Announcement : 17.3.2023

J U D G M E N T

KAUSAR SULTANA HUSSAIN, J. - By this order, I intend to dispose of instant Civil Revision Application, filed by the applicants against the Judgment and Decree dated 6.1.2016, passed by learned Additional District Judge, Matli in Civil Appeal No. 03 of 2014 and order and Decree dated 17.12.2013 passed by learned Senior Civil Judge, Matli (Sindh) in F.C. Suit No. 18 of 2013 on an application under Order VII Rule 11 CPC filed by the respondent No.7 / defendant No.7, which was resisted by the applicants / plaintiffs by filing Counter Affidavit, opposing therein the contentions of the applicant / defendant and reiterated the contents of their plaint altogether.

2. The respondent No.7 / defendant No.7 has invoked the provision of order VII rule 11 CPC for rejection of plaint, on the ground that (1) the suit of the plaintiff is time barred and (2) that the suit is not maintainable. The law has formulated certain principles and criteria for rejection of plaint in Civil Procedure Code. I refer the relevant provision of law, which reads as under :-

ORDER VII RULE 11 CPC

Rejection of plaint:- The plaint shall be rejected in the following cases:

a) *Where it does not disclose a cause of action;*

- b) *Where the relief claimed is under-valued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;*
- c) *Where the relief claimed is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;*
- d) *Where the suit appears from the statement in the plaint to be barred by any law.*

3. It may be observed that this provision of Civil Procedure Code can be pressed into service when these grounds appear to be in existence within the body of the plaint. Reference is made to the case of *Mian Asif Islam v. Mian Muhammad Asif and others (PLD 2001 SC 499)*; *Haji Allah Baksh v. Abdul Rehman and others (1995 SCMR 459)*; and *Ghulam Ali v. Asmatullah and another (1990 SCMR 1630)*.

4. It is well settled law that while deciding application under Order VII Rule 11 CPC only the averments made in the plaint are to be looked into. On examination of the plaint, it divulge that the plaintiff has filed captioned suit, for Declaration, Cancellation of Sale / Gift deeds and Bogus Entries in the record of rights and Permanent Injunction against official Defendants No. 1 to 6 and private Defendant No.7. Per contents of plaint, the land comprising upon present Revenue Survey Nos. 58, 59, 60, 61, 62, 63, 64, 65 framed out of old un-assessed survey number 47 admeasuring (46-39) and survey number 82 framed out of old un-assessed Survey No.272 admeasuring (6-19) of Deh Khad Khuhi, Tappa Additional Mangriya (formerly Gul Mohammad Zour) Taluka Matli (formerly Dero Mohabat District Badin (formerly District Hyderabad), is the subject matter of the present suit and shall here-in-after be referred as Suit Lands; that, old Un-assessed survey number 47 of Deh Khad Khuhi was converted into new survey numbers as 58, 59, 60, 61, 62, 63, 64, 65 and survey number 272 was converted into new survey number 82. Copy of Deh Form No.1, of old un-assessed survey numbers 47 and 272 of Deh Khad Khuhi, is (annexed herewith as Mark-B); that, elder/predecessor of the plaintiffs / applicants namely Wali Mohammad s/o Budho Aeri, per original revenue record of lands was the owner as well as sitting tenant of suit land since year 1871. Copy of Partt dated: 04-12- 1884 from Field Book showing the ownership of Wali Mohammad S/O Budho Aeri in

respect of old un- assessed survey number 47 of deh Khad Khuhi is annexed herewith as Mark-C): that, the suit land was sold out/disposed of/ surrendered/ handed over in vacant possession in any way/any manner by Wali Mohammad s/o Budho Aeri during his life time neither to anyone including the Government nor by his descendants including the present plaintiffs after his demise till today; that, Wali Mohammad S/O Budho Aeri died in the decade of 1890 and he left behind two sons each 1. Wassayo Aeri and 2. Sulleman Aeri as his L.R's, while Wassayo Aeri and Sulleman Aeri died in the year 1935 and 1940 respectively; that, Wassayo S/O Wali Mohammad Aeri left behind his son Ali Bakhsh Aeri and Sulleman s/o Wali Mohammad Aeri left behind his son Ramzan S/o Sulleman Aeri as their surviving legal heirs respectively; that, plaintiffs No.1 to 5 and the L.R's of plaintiff No.5 (deceased) viz. No. 1 to vii are the descendants of Ali Bakhsh S/O Wassayo Aeri, while plaintiff No.6 (deceased) and his L.R's viz. No. 1 to vii are the descendants of Ramzan S/o Sulleman Aeri; that, since the demise of Wali Mohammad S/O Budho Aeri, his descendants including the present plaintiffs have been remaining in cultivating possession of the suit land but due to illiteracy and mutual confidence on each other they could not get transfer of Khata with their names in the concerned record of rights as legal heirs in respect of suit land; that, admittedly per revenue record there is an archaic village named as Wassayo Aeri situated within the centre of suit land, where plaintiffs and other hundreds of Aeri caste community people are living since their forefathers and they all hold Domiciles, PRO's, NIC's and Electoral Record with the name of said village; that, one Kaka and Habib both sons of Phaman Kamboh, father and uncle of private defendant No.7 respectively, came from India in Sindh after partition and were sat by the Government of Pakistan with full moral and financial support provided by the elders of the present plaintiffs and other natives of locality in Deh & Tapa Mangriya Taluka Matli, District Badin, by establishing a new village now named as Nabi Bakhsh Kamboh; that, in year 1972 the plaintiff / applicant No.1, collected original record of suit land from the office of Land Records Officer Hyderabad (annexed herewith as mark-A & B) and approached the Mukhtiarkar Matli for transfer of khata with the names of L.R's in the relevant record of rights, from where he was informed that there are some disputed /suspicious entries in respect of the suit land in concerned revenue record on the names of Bhoora Singh s/o

Lakha Singh, Jan Mohammad s/o Ali Mohammad Qureshi, Kaka s/o Phaman and Habib s/o Phaman with reference of one claimant lady namely Mst. Amna alias Ghesai/Ghaas D/O Bundoo W/O Jan Mohammad, and he was directed to approach the superior Revenue Officers for redress; that, the plaintiffs / applicants No.1 and others, after such information collected the following documents/entries and Khatooni from the concerned officers, which are relevant to the suit land.

- i) Entry No.40 Deh Form-VII old (annexed as Mark-D).
- ii) Entry No.358 Deh Form-VII old (annexed as Mark-D-1).
- iii) Entry No.402 Deh Form-VII old (annexed as Mark-D-2).
- iv) Registered Sale Deed No.312 Dated: 18-04-1966 (annexed as Mark-D-3)
- v). Khatoni No. 33 dated: 25-5-68 on the name of lady claimant Mst, Amna alias Ghessi /Ghaas. (annexed as Mark-D-4).
- vi). Entry No.143 from Mutations Register of Deh Khad Khuhi (annexed as Mark-D-5).
- vii). Entry No. 147 from Mutations Register of Deh Khad Khuhi (annexed as Mark-D-6).

5. That, Entries No.40, 358, 402 and Khatoni of lady claimant Mst. Amna alias Ghessi /Ghaas dated: 25-5-68 as well as Entries No. 143 and 147 in the name of Mst, Amna alias Ghessi/Ghaas, were in continuance of doubts mutations in respect of the suit land, hence the plaintiff No.1, and others, moved applications for inquiry and clarification of the genuineness of same before the Revenue officers; that, on filing of application by plaintiff No.1, on 03-09-1990 with prayer of inquiry and clarification in respect of suit land the then Deputy commissioner Badin Mr. Amir Ali Behn issued RUBKARI to the plaintiff No.1, bearing No. REH/8985 Dated: 04-10-1990 wherein he declared that the suit land viz. survey number 58 & others of deh Khad Khuhi is evacuee land in the name of Bhora Singh s/o Lakha Singh and not allotted to any claimant, thereat plaintiff No.1, filed another application before the said Deputy Commissioner Badin to cancel the bogus entries viz. 358 and 402 in record of rights as those entries were in connection of alleged claim regarding the survey numbers of the suit land on 05-11-1990, whereupon the Deputy Commissioner Badin called report from Mr. Bakhshal Khan Abbasi the then Assistant Commissioner Matli, who reported vide his

report No.HM/1725 of 1990 Dated:12-12- 1990 stating therein that afore said entries regarding survey numbers of suit land with the name of claimant are bogus and requires to be suspended, but said Deputy Commissioner Badin after receiving such report treating the matter as an old one did not cancel/suspend such bogus entries and in mechanical manner he advised the plaintiff No.1, to seek remedy from competent Civil Court and filed his application. Copies of RUBKARI issued by Deputy Commissioner Badin Dated: 04-10-1990, Report of Assistant Commissioner Matli dated: 12-12-1990 and Disposal Order of Deputy Commissioner Badin on report of Assistant Commissioner Matli Dated 26-02-1991 are annexed herewith as Mark-E to E-2); That, later on plaintiff / applicant No.1 and others also moved application to District Officer Revenue Badin for confirmation the factual position of entry number 40 which was placed in the revenue record with the name of Bhoora Singh S/O Lakha Singh, who called report from Mukhtiarkar Estate Badin-defendant No.5, and issued RUBKARI bearing No. DO (REV)/Estate/1525 of 2010 Dated: 30-11-2010 whereby he confirmed that question of allotment of suit land to Dhaloo Mal Hindu does not arise and he also advised the plaintiff No.1 and other applicants to get remedy from competent forum. Copies of RUBKARI issued by District Officer Revenue Badin dated 30.11.2020 and Report of Mukhtiarkar Estate Badin Dated 13.10.2010 are annexed herewith as Mark E-3 & E-4; that, Entry No.40, of Dell Form-VII old, annexed hereinabove as Mark-D, is a root of the whole fraud in respect of the rest bogus and false entries and Registered Sale/Gift Deeds; as neither it narrates the date of entry nor names of purchaser/seller in the relevant columns No.2, 3 & 4 respectively. Besides old mutation is not mentioned in this entry, though Dhaloo Mal has been disclosed as seller of the suit land in a wrong column of this Entry Form with reference of sale dates i.e 25-1-27 and 16-2-28, from which it reveals that Dhaloo Mal was not owner of the suit land. Even such entry does not bear any acceptance note or signature of the than Mukhtiarkar who was competent authority of the time; that, Entry No.358 Deh Form-VII old, annexed hereinabove as Mark-D-1, is result of mutated Entry No.40, which is also bogus and false, as in this entry Bhoora Singh has been shown as khatedar/seller of the suit land and Jan Mohammad as purchaser, but in column No.5 of this entry Form a Note by the then Tapedar has been written with reference of Orders of Assistant Rehabilitation Mukhtiarkar Sub-Division Tando Mohammad Khan and Mukhtiarkar Matli that as such

claimant Mst. Amna alias Gaahi had been expired, hence khata is transferred in the name of her husband namely Jan Mohammad. While per revenue rules and regulations if any khatedar expires his/her khata is transferred in the names of his/her L.R's but this entry is answerless on this point, more over this entry is also not signed by the competent authority who was Mukhtiarkar of the time; that, Entry No.402 of Deh Form-VII old, annexed hereinabove as Mark-D-2, is result of mutated Entry No.358, which is also bogus and false and basis upon doubtful Registered Sale Deed No. 312 Dated: 18-04-1966 annexed herewith as Mark-D-3, as neither survey numbers of suit land were ever remained under ownership of Mst. Amna alias Ghessi under any old mutation of Record of Rights nor same were allotted to her under any claim, hence sale of suit land by Jan Mohammad being husband of Mst. Amna alias Ghessi to father and uncle of private defendant / applicant No.7, through the aforesaid Registered Sale Deed is not only null and void but also surprising. More over this Entry in the record of rights with the names of father and uncle of defendant No.7, was kept prior to the final registration date of such Sale Deed, which is mentioned in It as 22-10-66, hence both the Registered Sale Deed as well as Entry on its basis in the record of rights with names of father and uncle of defendant No.7, are liable to be cancelled; that, Khatooni No. 33 dated: 25-05-68 with the name of claimant Mat. Amna alias Ghessi annexed herewith as Mark- D-4 and its relevant entries No. 143 & 147 annexed herewith as Marks-D-5 & D-6 from Mutations Register of Deh Khad Khuhi clearly testify that survey numbers of suit land were not allotted to her by the Govt. of Pakistan in any way under her claim, hence any transfer or mutation of her khata in the name of her husband namely Jan Mohammad through Entry No. 358 and thereafter sale of suit land by said Jan Mohammad to the father and uncle of defendant No.7, through Entry No.402, on later stage in respect of survey numbers of suit land is a clear fraud with the original owners of suit land; that, plaintiff No.1 and other plaintiffs were approaching the offices of concerned revenue authorities for clarification the factual position of ownership and cancellation of bogus entries as mentioned above in the relevant record of rights, meanwhile the defendant No.7, with collusion of defendant No.6, secretly got transferred the so called 50% share of his father, in the suit land, as mentioned in entry No.402, on his name under entry No. 59, through Registered Gift Deed bearing Sr. No. 378 Dated 01-06-1991, as well as he also got transferred the 50% share of his uncle, as mentioned in same entry No. 402, through

attorney of L.Rs of his uncle, in respect of the survey numbers of suit land on his name under entry number 68 Dated: 03-05-1992 on the basis of Registered Sale Deed Dated: 15-06-1991, though the old mutations were disputed and under inquiries; that, plaintiff No.1. and other villagers due to the continuance of above injustice, again moved application to the EDO (Rev.) Badin on 21-07-2009 on the same subject praying therein that all the bogus entries may be cancelled and original khata of their predecessor Wali Mohammad S/O Budho Aeri be restored, thereat EDO (Rev.) Badin called report from Mukhtiarkar (Rev.) Matli, defendant / respondent No.5, vide his letter No. EDO (R) EB-1611 of 2009 dated 21-07-2009, who in compliance of such letter submitted his report through office of the DDO (Rev.) Matli vide No. 1443 of 2009 Dated: 24-11-2009 along with detailed report of concerned Tapedar of the beat, wherein Tapedar disclosed whole the fraud 'committed in respect of the suit land. Copies of application Dated: 21-07-2009, letter of EDO (Rev.) Badin Dated: 21-07-2009, report of Mukhtiarkar Matli Dated: 24- 11-2009 with covering letter of DDO (Rev.) Matli Dated: 14-12-2009 and report of Tapedar of the beat Dated: 18-08-2009 are annexed herewith as Marks-G to G-4); that, on receiving report from Mukhtiarkar, when matter was pending before EDO (Rev.) Badin for redress, the present defendant No.7, with intention to happen further complexity in the way of clarification regarding the genuineness of ownership/ claim/entries of suit land and committed fraud, filed F.C Suit No.57/ Dated: 28-08-2009 against a fake/managed private defendant namely Bashir Ahmed s/o Ali Mohammad Kamboh & other official defendants without joining the present plaintiffs as necessary and proper party in the Court of Senior Civil Judge, Matli, hence the plaintiff and his companions approached before learned Senior Civil Judge Matli and moved application under Order 1 Rule: 10 CPC as interveners with prayer to join them as defendants but their application without considering the facts on merit and applying judicial mind, was dismissed in mechanical manner vide Order Dated: 28-05-2010; that, plaintiff No.1, and 17 others challenged the aforesaid order passed by the court of Senior Civil Judge Matli on application U/O 1 Rule 10 CPC by filing Civil Miscellaneous Appeal No.09/2010 U/S 105 CPC before the Court of District Judge Badin, which later on transferred to the Court of 1st Additional District Judge Badin for further proceedings, but during pendency of appeal in the said Court, the respondent No.7, and Bashir Ahmed s/o Ali Mohammad Kamboh a fake/managed defendant No.5, of F.C. Suit No.

57/2009 under intention to get rid from the present plaintiffs, jointly moved application U/O 23 Rule 3 CPC before the Court of Senior Civil Judge Matli and got decreed their aforesaid suit in terms of compromise, vide Order & decree dated: 29-07- 2010; that, in the result of decreeing F.C. Suit No. 57/2009 on compromise application filed by the present defendant No.7 and Bashir Ahmed s/o Ali Mohammad Kamboh a fake/managed defendant No.5. of said suit, civil Miscellaneous Appeal No.09/2010 U/S 105 CPC pending before the Court of 1st Additional District Judge Badin became in-fructuous; that, being aggrieved and dissatisfied to the impugned Order and Compromise Decree Dated: 29-07-2010 annexed hereinabove as Marks-1-2 & 1-3, the plaintiff No.1, and 12 others being appellants filed Civil Appeal No. 76/2010 U/S 96 CPC in the court of District Judge Badin, which later on transferred to the Court of 1st Additional District Judge Badin by way of transfer and after hearing the parties 1st Additional District Judge Badin had allowed the said appeal and remanded the suit to trial Court with directions to join the plaintiff No.1, and others as defendants to contest the suit. Copies of Civil Appeal No. 76/2010, and Judgment Dated: 14-10-2011 are annexed herewith as Marks-J & J-1); that, being aggrieved and dissatisfied with the Judgment Dated: 14-10-2011, passed by learned 1st Additional District Judge Badin in Civil Appeal No.76/2010, the present appellant/ defendant No.7, being plaintiff/Decree Holder of F.C. Suit No. 57/2009 preferred Civil Revision No.347 of 2011 on 12-12-2011, which is pending in this Court; that, on the other side after remand of F.C. Suit No. 57/2009 from the Court of 1st Additional District Judge Badin, suit was re-numbered as New F.C. Suit No.37/2011 and the intervenors viz. plaintiff No.1 and 12 others were joined as defendants in the said suit and they filed their Written Statement. Copy of Written Statement Dated: 30-04-2012 in re-numbered New F.C. Suit No.37/2011, is annexed herewith as Mark-L); that, after filing of Written Statement by the defendant No.1, and other intervenors/defendants in New F.C. Suit No.37/2011(old F.C. Suit No. 57/2009), the present defendant No.7, being plaintiff of the suit malafidely and with intention to save his skin withdrew from the same by filing statement Dated:21-05-2012 through his counsel showing reason of a technical defect in the suit with permission to file a fresh, resultantly his suit stood dismissed as withdrawn vide Order Dated: 21-05-2012, but he did not bring any fresh suit till today, resultantly his Civil Revision No.347/2011 pending in the High Court of Sindh, Circuit Court. Hyderabad has been in-fructuous. Copy of withdrawal Statement

Dated 21-05-2012, along with Court Order of same date is annexed herewith as Mark-M); that, the plaintiffs being descendents/L.R's of their predecessor Wali Mohammad S/O Budho Aeri in his property/suit land, so also sitting tenants and possession holder of the suit land since their forefathers are entitled to get khata transfer with their names as per revenue rules, hence the suit was filed; that, after fulfillment of all legal requirement the suit was admitted for further proceeding but the trial court out rightly rejected the plaint; hence the instant Civil Revision Application.

6. I have heard learned counsel for the parties and perused the material available on record.

7. Mr. Zain ul Abdin Sahito, Advocate for the applicants mainly contended that both the courts below have not appreciated the recurring cause of action against the defendants and the litigation between the parties is going on from the revenue department; that the courts below have failed to consider void document as well as the basis of void document subsequent entries in the record of rights which is void one on the face of it as the property in-question is a government na-qabooli land which is not allotted to anyone including persons from whom either plaintiff or his father purchased the same and entries in revenue record on the basis of alleged sale deed and gift deed are illegal void; that the courts below have not appreciated that the void order or entries no limitation run as held by Honourable Supreme Court; that the trial court has not appreciated that entries towards the government land are being kept in the record without following the revenue law; that prior to changing the khata entries in the record of rights no JALSA-E-AAM was held by the Revenue Authorities; that the trial court wrongly interpreted the definition of Article 120 of Limitation Act; that the applicants are in possession of disputed land since their forefathers which is protected under Sindh Tenancy Laws; that learned trial court has not appreciated the right of applicant as the valuable right are attached with the suit property; that the orders of both the courts below are against the merit as the applicants have been deprived from their legal rights on technical grounds. In support of his arguments he relied the cases of *Khair Din v. Mst. Salaman and others* (PLD 2002 Supreme Court 677); *Talib Hussain and others v. Member Board of Revenue and others* (2003 SCMR 549);

8. On the other hand learned counsel for respondent No.7 has supported the impugned Judgment and decrees being passed after appreciating relevant

Laws and facts of the matter; that delay in approaching the civil court for filing suit after passing 40 years of alleged cause of action against respondent No.7 / defendant No.7 was not liable to be ignored as the Law of Limitation provides certain time for that purpose, therefore, both the courts below have rightly decided the controversy legally and factually. The learned counsel for respondent No.7 / defendant No.7 has prayed for dismissal of the present Revision Application with costs. In support of his arguments he relied upon the cases of Muhammad Yousaf Memon through Attorney and another v. City District Government through District Coordinate Officer and 5 others (2005 CLC 753); Arshad Khan v. Mst. Resham Jan and others (2005 SCMR 1859); Muhammad Hussain and 2 others v. EISA and another (1994 SCMR 523);

9. After hearing arguments of learned counsel for the parties and perusal of record it transpires that the applicants claim that land in question comprising upon new Revenue Survey Nos. 58, 59, 60, 61, 62, 63, 64 and 65 have been formed out of old un-assessed Survey No. 47 admeasuring (46-39) acres and Survey No. 82 formed out of old un-assessed Survey No. 272 admeasuring (6-19) acres of Deh Khad Khuhi, Tappa Additional Magriya, Taluka Matli originally belong to their forefathers / predecessor namely Wali Muhammad s/o Budho Aeri as per original Revenue Record of Rights since 1871 and after death of said Wali Muhammad and than his both sons namely Wassayo and Sulleman and than their sons namely Ali Bukhsh and Ramzan, the applicants being their survivors after their death could not get transferred khata of land in question upon their names in concerned record of rights and later they came to know from the office of Mukhtiarkar Matli that there are some disputed / suspicious entries in respect of said land in the names of Bhoora Singh and others; therefore, the applicants approached the concerned Revenue authorities for cancellation of such bogus and doubtful entries, inquiring and clarification in respect of suit land but they did not redress their grievances, hence they approached the civil court for the purpose of correction of the impugned entries inserted in the record of rights on the basis of fraud and with collusion of the interested persons. The applicants / plaintiffs filed F.C. Suit No. 18 of 2013 before the learned Senior Civil Judge, Matli for declaration, cancellation of sale / gift deeds and bogus entries in the record and permanent injunction.

which was rejected under impugned Order dated 17.10.2013 and its appeal No. 3 of 2014 was also dismissed. The facts of the case do show that the main thrust of the matter is that the above mentioned disputed / suspicious entries made in the record of right in respect of suit land in the name of Bhoora Singh s/o Lakha Singh, Jan Muhammad s/o Ali Muhammad Qureshi, Kaka s/o Phaman and Habib s/o Phaman with reference of one claimant namely Mst. Amna alias Gheesi w/o Jan Muhammad through illegal means may be corrected by cancelling fake entries of the suit property in the record of rights. Correction of Revenue Record is within exclusive competence of Revenue Department in terms of Section 172 of the Land Revenue Act, 1967 and jurisdiction of Civil Court is barred. The relevant Section 172 of the Land Revenue Act 1967 is being reproduced here for ready reference as under:-

172. Exclusion of jurisdiction of Civil Courts in matters within the jurisdiction of Revenue Officers. (1) Except as otherwise provided by this Act, no Civil Court shall have jurisdiction in any matter which Government, the Board of Revenue, or any Revenue Officer, is empowered by this Act to dispose of or take cognizance of the manner in which Government, the Board of Revenue, or any Revenue Officer exercise any powers vested in it or him by or under this Act.

(2) Without prejudice to the generality of the provisions of sub-section (1), a Civil Court shall not exercise jurisdiction over any of the following matters namely:-

- (i) any question as to the limits of any land which has been defined by a Revenue Officer as land to which this Act does not apply;
- (ii) any claim to compel the discharge of any duties imposed by this Act or any other enactment for the time being in force on any Revenue Officer as such;
- (iii) any claim to the office of a Village Officer, or in respect of any injury caused by exclusion from such office, or to compel the discharge of the duties or a division of the emoluments thereof;
- (iv) any notification directing the making or revision of a record-of- rights;
- (v) the framing of a record-of-rights or periodical record, or the preparation, signing or attestation of any of the documents included in such a record;
- (vi) the correction of any entry in a record of rights, periodical record or register of mutation;
- (vii) any notification of the undertaking of the general reassessment of a District or Tehsil having been sanctioned by Government;
- (viii) objection to the amount or rate of any assessment of land revenue the period thereof authorized by Government;

- (ix) the claim of any person to be liable for an assessment of land revenue or of any other revenue as assessed under this Act;
- (x) The amount of land-revenue to be assessed on any estate or to be paid in respect of any holding under this Act;
- (xi) the amount of, or the liability of any person to pay, any other revenue to be assessed under this Act, or any cess, charge or rate to be assessed on an estate or holding under this Act or any other enactment for the time being in force;
- (xii) any claim relating to the allowance to be received by a land-owner who has given notice of his refusal to be liable for an assessment, or any claim connected with or arising out of, any proceedings taken in consequence of the refusal of any person to be liable for an assessment under this Act;
- (xiii) the formation of an estate or determination of its boundaries;
- (xiv) any claim to hold free of revenue any land, mills, fisheries or natural products of land or water;
- (xv) any claim connected with, or arising out of, the collection by Government, or the enforcement by Government of any process for the recovery of, land-revenue or any sum recoverable as an arrear of land revenue;
- (xvi) any claim to set aside, on any ground other than fraud, a sale for the recovery of an arrear of land-revenue or any sum recoverable as an arrear of land-revenue;
- (xvii) the amount of; or the liability of any person to pay any cess, fees, fines, costs or other charges imposed under this Act;
- (xviii) any claim for partition of an estate or holding, or any question connected with or arising out of, proceedings for partition, not being a question as to title in any of the property of which partition is sought;
- (xix) any question as to the allotment of land on the partition of an estate or holding or as to the distribution of land subject by established customs to periodical redistribution or as to the distribution of land-revenue on the partition of an estate or holding or on a periodical redistribution of land;
- (xx) any question connected with or arising out of or relating to any proceedings for the determination of boundaries of estates subject to river action under the provisions of this Act; and
- (xxi) any claim regarding boundaries fixed under any of the enactments hereby repealed or any other law for the time being in force, or to set aside any other law passed by a competent officer under any such law with regard to boundary marks.

10. The applicants earlier approached to the Revenue officers, for the purpose of getting correction of entries in the record of rights as narrated above and later instead to pursuing that matter(s) before Revenue hierarchy filed Suit No. 18 of 2013 before civil court, however, the Suit No. 18 of 2013 is barred by Section 172 of 'The Sindh Land Revenue Act, 1967' as discussed supra.

11. Section 11 of Sindh Revenue Jurisdiction Act, 1876 bars jurisdiction of Civil Court to entertain any suit which is filed on account of any act or omission of any Revenue Officer. For convenience sake Section 11 of Sindh Revenue Jurisdiction Act, 1876 is reproduced as under:-

“ 11. Suits not to be entertained unless plaintiff has exhausted right of appeal:- No Civil Court shall entertain any suit (against the government) on account of any act or omission of any Revenue Officer unless the plaintiff first proves that, previously to bringing his suit, he has presented all such appeals allowed by the law for the time being in force as, within the period of limitation allowed for bringing such suit, it was possible to present.

12. The Revenue Courts have exclusive jurisdiction to determine the matter pertaining to Land, Revenue, Partition etc. In the circumstances as discussed above, the two courts below have rightly decided the matter pending before them and I do not find any illegality or infirmity in both the order / Judgment, hence the instant Revision Application is hereby dismissed and in consequences thereof the order dated 17.12.2013 passed by learned trial court for rejection of plaint of Plaintiff's Suit No. 18 of 2013 under Order VII Rule 11 CPC as barred by Limitation Act and under Section 172 of 'The Sindh Land Revenue Act, 1967', and Judgment dated 6.1.2016 passed in Civil Appeal No. 03 of 2014 are maintained with no order as to cost.

17/3/2023
JUDGE