

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT
LARKANA**

Civil Revision Application No.S-97 of 2022

(Abdul Ghafoor Vs. P.O Sindh & others)

Applicant : Abdul Ghafoor Qasmani, *through* Mr. Abdul Rehman A.Bhutto, Advocate.

Respondents : Province of Sindh and others, *through* Mr. Abdul Waris Bhutto, Assistant Advocate General, Sindh.

Date of Hearing : 16.10.2025.

Date of Decision : 16.10.2025.

Date of Reasons : 17.10.2025.

JUDGMENT

Ali Haider 'Ada'.J:- Through the instant Civil Revision Application, the applicant has assailed the judgment dated 08.12.2018 and decree dated 11.12.2018, passed by the learned 1st Senior Civil Judge, Shikarpur (hereinafter referred to as the trial Court) in F.C. Suit No.65 of 2017, filed by the applicant as plaintiff. The applicant has also impugned the judgment dated 18.04.2022 and decree dated 20.04.2022, passed by the learned Additional District Judge-III, Shikarpur (hereinafter referred to as the appellate Court) in Civil Appeal No.03 of 2019, which was preferred by the applicant against the findings of the trial Court, but was dismissed by maintaining the same. Through this Civil Revision, the applicant has called in question the legality and validity of the concurrent findings recorded by both the Courts below.

2. Briefly, the applicant, being the plaintiff, instituted a Civil Suit primarily seeking a declaration to the effect that he is the lawful owner of the suit property bearing Survey No.20, measuring 01-22 acres out of a total area of 04-22 acres (hereinafter referred to as the suit property). In support of his claim, the plaintiff produced one revenue entry during the course of his evidence. Conversely, the concerned public functionaries filed their written statement, wherein they categorically denied the applicant's ownership and asserted that the entry relied upon by the plaintiff was bogus, null, and void.

3. After completion of the pleadings, the learned trial Court framed the following issues for determination:

- a). *Whether, the suit of the plaintiff is maintainable under law?*
- b). *Whether, the plaintiff is lawful owner of the suit property measuring 01-22 Acres (about 67518 square feet) from Survey No.20 (total area 04-22 Acres) situated near Mirani Muhalla Shikarpur vide entry No.67 of DKR No.10246 ?*
- c). *Whether, the plaintiff is in peaceful and lawful possession of the suit land?*
- d). *Whether, the Entry No.67 of DKR No.10246 is bogus and forged?*
- e). *Whether, the plaintiff is entitled to the relief claimed for?*
- f). *What should the decree be?*

4. After framing of the issues, the attorney of the plaintiff/applicant, namely Mumtaz Ahmed, was examined, who produced Entry No.67 in support of the applicant's claim. Thereafter, Mukhtiarkar Zahid Ali was examined on behalf of the respondents, who testified that the said entry produced by the applicant was false and suspicious, and that the same had already been cancelled by the competent revenue authorities.

5. Subsequently, the learned trial Court, after hearing the parties through their respective counsel, passed the judgment and decree against the applicant and dismissed the suit. The applicant preferred an appeal before the learned appellate Court, but remained unsuccessful; hence, the present Civil Revision Application has been filed.

6. Learned counsel for the applicant contends that the Courts below failed to consider the material available on record, as the entry produced by the applicant was duly issued by the revenue authorities, and on that basis the applicant had become the lawful owner of the suit property. It is further submitted that the said entry was based upon a sale deed. However, during the course of arguments, learned counsel conceded that the alleged sale deed was not exhibited before the trial Court. He further argued that the revenue authorities cancelled the entry without lawful authority, therefore, the impugned judgments and decrees passed by both the Courts below are liable to be set aside.

7. Conversely, learned Assistant Advocate General, appearing on behalf of the respondents, submits that the applicant has no case, as his claim rests merely on a single entry, which is not a title document. He further submits

that the entry was bogus, and the said was already cancelled as maintained by previous owner and such cancellation order was never challenged under the relevant provisions of law, hence it still holds the field. It is argued that the applicant, with mala fide intent, filed the suit even he has no possession and that both the learned trial Court and the appellate Court rightly dismissed the same through well-reasoned judgments and decrees.

8. Heard the learned counsel for the parties and perused the material available on record.

9. First and foremost, it is pertinent to mention that the burden of proof for the establishment of a case lies squarely upon the shoulders of the plaintiff. When the ownership or title of the property is specifically denied by the opposing party, it becomes the prime duty of the plaintiff to substantiate his claim by producing a valid title document, free from any ambiguity, and to affirmatively prove his ownership through admissible evidence. Mere assertions, oral statements, or production of unverified entries in the revenue record do not discharge such burden unless supported by lawful documentary evidence establishing ownership. In this regard, **Article 117 of the Qanun-e-Shahadat Order, 1984** explicitly provides that the party who desires the Court to give judgment as to any legal right or liability dependent on the existence of certain facts must prove that those facts exist. For ready reference, the said Article is reproduced hereunder:

117. Burden of proof.– (1) Whoever desires any Court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts, must prove that those facts exist.

(2) When a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person.

Illustrations

(a) A desired a Court to give Judgment that B shall be punished for a crime which A says B has committed.

A must prove that B has committed the crime.

(b) A desires a Court to give judgment that he is entitled to certain land in the possession of B by reason of facts which he asserts, and which B denies to be true.

A must prove the existence of those facts.

The legal position emerging from the above provision is explicated the party who asserts must prove. Therefore, in civil proceedings, particularly where the plaintiff seeks declaration of ownership, the initial and primary burden rests upon him to establish his lawful title through credible and cogent

evidence. Unless such burden is satisfactorily discharged, no obligation is cast upon the defendant to disprove the claim. In the present case, since the applicant/plaintiff has claimed ownership of the suit property, the burden to prove his title squarely lay upon him under Article 117 of the Qanun-e-Shahadat Order, 1984.

10. Furthermore, the entire case of the plaintiff/applicant is founded upon a single revenue entry, which by itself does not constitute a title document. Such entries are made pursuant to a prescribed procedure under the revenue laws; however, the applicant/plaintiff has failed to establish that the entry made in his favour was lawfully recorded after following the due process envisaged under the law. The record reflects that the basic entry of previous owner was already cancelled by the competent revenue hierarchy, and the applicant or previous owner did not challenge such cancellation order before the appropriate revenue forum through an appeal under Section 161 or a Revision under Section 164 of the Land Revenue Act, 1967. The applicant merely relied upon the entry wherein his name was reflected as owner, but no independent or corroborative evidence was produced on record to demonstrate that the entry was genuine or that the concerned revenue functionaries had lawfully attested the same. On the contrary, the revenue authorities had declared the said entry as bogus and without lawful foundation. Both the learned Courts below, after examining the oral and documentary evidence, have concurrently held that the suit property does not belong to the applicant/plaintiff, who has utterly failed to establish his title in respect of the property in question. Reliance in this regard is placed upon the case of **Allah Ditta v. Additional District Judge, Chiniot and others (1996 SCMR 1779)**

11. It is a settled principle of law that title cannot be created merely on the basis of entries in the mutation register, nor do such entries constitute prima facie proof of ownership of the person in whose name the property is recorded. An entry in the revenue record, by itself, does not establish ownership of the record holder; rather, it only reflects possession or fiscal liability for revenue purposes. The person asserting ownership on the basis of such entry bears the burden to prove the underlying transaction upon which the entry is founded. Since the existence of such transaction is alleged affirmatively by that person, failure to prove it necessarily results in the collapse of his claim. Support for this legal proposition is drawn from the case

of **Muhammad Akram and another v. Altaf Ahmed (PLD 2003 Supreme Court 688)**).

12. The claim of the plaintiff/applicant that the entry recorded in his favour was based upon a sale deed is wholly unsubstantiated. The record clearly reveals that no such sale deed was ever produced before the learned trial Court in support of his assertion. The learned trial Court, while examining this aspect, rightly observed that the applicant had failed not only to place on record any documentary evidence in the shape of a sale deed but also failed to examine any witness to prove the alleged sale transaction upon which the said entry was purportedly founded. It is a well-settled principle that when a party bases its claim on a specific transaction of sale, the onus lies upon that party to produce the original sale document and to prove its execution through admissible evidence, such as the testimony of the vendor, attesting witnesses, or the scribe of the deed. Mere reliance on an entry in the revenue record, without producing or proving the foundational document, cannot establish ownership or title. In view of the above, the findings of the learned trial Court on this point are correct in law and fact, being based on proper appreciation of evidence and settled legal principles, and therefore call for no interference. In this regard, the Hon'ble Supreme Court of Pakistan in the case reported as **Federation of Pakistan through Secretary, Ministry of Defence and another v. Jaffar Khan and others (PLD 2010 SC 604)** has observed that:-

"12. The document which has not been brought on record through witnesses and has not duly exhibited, cannot be taken into consideration by the Court. A party having produced no evidence on its own would have to abide by it, and be bound by such evidence as had come on record. Written statement cannot be exhibited in the case without the person who filed the same being examined in the Court and cannot be treated as substantive evidence except where such statement amounts to admission of plaintiff's plea. The contention of the learned counsel for the petitioners that the Court has to take into consideration the document on which the petitioners relief upon, has no force as neither the copy of such document was brought on record nor during their cross-examination the witnesses of the respondents were confronted with the said document."

The Hon'ble Supreme Court of Pakistan has further held in the case reported as **Mst. Akhtar Sultana v. Major Retd. Muzffar Khan Malik through his legal heirs and others (PLD 2021 SC 715)**:-

"This Court has time and again emphasized that the disputed documents cannot be tendered in evidence in statement of the counsel for a party, because such procedure deprives the opposing party to test the authenticity of those documents by exercising his right of cross-examination."

In another case reported as **Rustam and others v. Jehangir (deceased) through LRs (2023 SCMR 730)**, the same view has been taken by the Hon'ble Supreme Court of Pakistan, which reads as under:-

"the document should be produced in the evidence by the party itself and a fair opportunity should be given to the opposite party to cross-examine the same, as such, the said two documents produced by the defendants counsel in his statement could not be taken into consideration."

13. So, in view of the foregoing discussion, it is evident that mere verbal assertions of the applicant, unsupported by any cogent, reliable, or convincing documentary and oral evidence, are insufficient to justify the relief sought. A case cannot be decreed merely on the basis of statements unless the same are substantiated through legally admissible and credible proof, which is entirely lacking in the present matter. Accordingly, keeping in view the above facts and circumstances, there is no justification for this Court to interfere with the concurrent findings recorded by the Courts below. The impugned judgments and decrees, are hereby maintained. Consequently, the instant Civil Revision Application stands dismissed, with no order as to costs. These are the detailed reasons for the short order announced on 16.10.2025.

JUDGE