

**IN THE HIGH COURT OF SINDH CIRCUIT COURT
AT HYDERABAD**

Civil Revision Application No. S-224 of 2014

Applicant: Asghar Shah alias Jumman Shah (since deceased) through his legal heirs (i) Ali Muhammad Shah, (ii) Shafi Muhammad Shah, (iii) Wali Muhammad Shah, (iv) Mst. Sara Bibi, (v) Mst. Husna Bibi, (vi) Mst. Makal Bibi and (vii) Mst. Zainab. Through Mr. Noor Ahmed Memon, Advocate.

Respondent(s): Muhammad Hanif son of Ghulam Rasool Shah and others through Mr. Muhammad Ishaque Khoso, advocate.

For Official Respondents: Mr. Muhammad Yousif Rahpoto, A.A.G.

Date of hearing: 12-08-2025

Date of Judgment: 16-09-2025

JUDGMENT

Jan Ali Junejo, J. --- This Civil Revision Application, filed under Section 115 of the Code of Civil Procedure, 1908, seeks to challenge and set aside the concurrent judgments and decrees passed by the learned lower courts. Specifically, the Applicants are aggrieved by the Judgment and Decree dated 30.09.2014 (hereinafter referred to as the "*Impugned Judgment and Decree*"), rendered by the learned 2nd Additional District Judge, Badin (hereinafter referred to as the "*Appellate Court*"), in Civil Appeal No. 07 of 2014, which dismissed the Applicants' appeal. This appellate judgment upheld the earlier Judgment and Decree dated 23.12.2013, passed by the learned Senior Civil Judge, Badin (formerly Senior Civil Judge, Golarchi at Badin) [hereafter referred to as the "*Trial Court*"], in F.C. Suit No. 137 of 2013 (Old F.C. Suit No. 54 of 2010), whereby the suit filed by the private

Respondents (original plaintiffs) was decreed as prayed. The core dispute revolves around inheritance rights concerning agricultural land, with the Applicants contending that the lower courts erred in their findings regarding limitation, fraudulent mutations, and the jurisdiction exercised by the appellate court.

2. The genesis of the present dispute lies in the suit filed by the private Respondents, Muhammad Hanif and others (hereinafter referred to as the 'Plaintiffs'), before the learned Senior Civil Judge, Golarchi at Badin, bearing Old S. No. 54/2010 and subsequently re-numbered as New F.C. Suit No. 137/2013. The Plaintiffs sought comprehensive reliefs including Declaration, Cancellation of entries, Partition, Separate Possession, Mesne Profit, Mandatory, and Permanent Injunction concerning extensive agricultural land situated in Deh Tarai and Deh Aaseli, Taluka Shaheed Fazil Rahu (hereinafter referred to as the 'suit land'). The Plaintiffs averred that the suit land was originally owned by one Allah Dino Shah prior to the pre-partition era, specifically in the year 1941, and the relevant 'khata' (land record) was duly mutated in his name. Upon the demise of Allah Dino Shah, he left behind his legal heirs: a son, Syed Ali Muhammad Shah, and two daughters, Mst. Phapoo and Mst. Khatoon. The Plaintiffs asserted their lineage and claim to inheritance through these two daughters. Specifically, it was pleaded that Mst. Phapoo, who was married to Mataro Shah, gave birth to Mashooque Ali Shah and Mst. Bibi Hajiran. Upon Mst. Bibi Hajiran's demise, her share devolved upon the Plaintiffs Muhammad Hanif Shah and Ali Akbar Shah. Similarly, Mst. Khatoon gave birth to Noor Muhammad Shah, whose share, upon his demise, was inherited by the Plaintiff Muhammad Hussain Shah. The Plaintiffs contended that while Syed Ali Muhammad Shah also left behind a son, Juman Shah (the predecessor-in-interest of the Applicants herein), and two daughters, Bibi

Marriam and Bibi Khatoon (junior), the entries in the revenue record showing alleged gifts made by Mst. Bibi Marriam and Mst. Bibi Khatoon (junior) in favour of the predecessor of the Applicants were false, fabricated, and not binding on the suit land. It was emphatically stated that Mst. Bibi Phapoo and Mst. Bibi Khatoon never executed any gifts in favour of the predecessor of the Applicants or any other person. The Plaintiffs further alleged that the predecessor of the Applicants, Asghar Shah alias Juman Shah (Defendant No. 7 in the original suit), had fraudulently deprived them of their rightful shares by manipulating the revenue records. It was specifically pleaded that after the demise of Syed Ali Muhammad Shah, the 'foti khata' (inheritance mutation) was erroneously changed solely in the name of Defendant No. 7, ignoring the shares of Mst. Bibi Phapoo and Mst. Bibi Khatoon. This was allegedly done through bogus will/gift documents, allowing Defendant No. 7 to retain 100 paisa share as per Entry Nos. 25, 13, 20, and 233. The Plaintiffs claimed that Defendant No. 7, being the male shareholder, kept the holding of late Allah Dino Shah in his possession and initially provided them with their due share from the produce until the end of 2005. However, from 2005 onwards, Defendant No. 7 ceased providing shares, asserting that the Plaintiffs had no share in the suit land as per the record. Upon approaching the concerned revenue authorities, the Plaintiffs discovered the alleged fraud perpetrated by Defendant No. 7, who had mutated the shares of Mst. Bibi Khatoon and Mst. Bibi Phapoo in his name based on fraudulent and alleged will/gift documents. The Plaintiffs' attempts to seek redress from the revenue authorities, including applications for cancellation of entries and fresh 'foti khata' as per Mohammadan Law, were met with resistance. Despite initial orders from Defendant No. 3 (District Officer Revenue) on 28.12.2006, directing verification of records and fresh 'foti khata', this order was subsequently recalled by Defendant No. 3 himself on 19.01.2007, advising

parties to approach the Civil Court. Further appeals to Defendant No. 2 (Executive District Officer Revenue) also resulted in similar advice on 01.07.2010, prompting the Plaintiffs to file the civil suit. The Plaintiffs also mentioned that during the pendency of litigation, a private arbitration (Faisla) was conducted by 'nekmards' (arbitrators), resulting in the Plaintiffs being granted exclusive possession of Survey Numbers 2, 3, 4, and 5, admeasuring 21 acres, situated in Deh Aaseli, of which they were in cultivating possession. The Plaintiffs sought the following reliefs from the Trial Court:

- A. *Declaration that the plaintiffs are legal heirs of Mst. Bibi Khatoon and Mst. Bibi Phapoo and so also are legal heirs of Mst. Bibi Marriam and Mst. Bibi Khatoon junior and as such, they are entitled to inherit their share from the suit land as per Mohamman law so also they are entitled for separate possession of the suit land;*
- B. *Declaration that entries nos. 20, 25, 3, 23, 13 in the name of defendant no. 7 made on the basis of alleged Will allegedly executed by Mst. Phapoon and Mst. Khatoon is false, fabricated and bogus and the same is liable to be cancelled;*
- C. *Declaration that the act of the defendant no. 4 only issuing the roobkari to the plaintiffs and not entertaining their application is also against the law and natural justice;*
- D. *Declaration that order dated 28/12/2006 passed by the defendant no. 3, on the appeal of the plaintiffs directing to verify record of Allahdino Shah and making foti khata in Jalsa-e-Aam after determining of legal heirs of deceased khatedars Allahdino Shah is legal, according to land revenue Act and law and the name is liable to be maintained;*
- E. *Declaration that the order dated 19/1/2007 passed by defendant no. 3 recalling his earlier order dated 28/12/2006 and directing the parties to approach Competent Court is illegal, malafide, collusive, against the law, natural justice and without any lawful authority and as such is liable to be set-aside/cancelled;*
- F. *Declaration that order dated 1/7/2010 passed by defendant no. 2, on the appeal of the plaintiffs directing them to seek remedy from the civil court of law is illegal, malafide, against the law and natural justice and as such the same is liable to be set-aside/cancelled;*
- G. *To issue mandatory injunction directing the defendant no. 5 to make Jalsa-e-Aam at the suit land and after verification of the legal heirs of late Khatedar Allahdino Shah, the Foti Khata be changed in the names of his alive legal heirs as per their shares;*
- H. *To issue mandatory injunction directing the defendant no. 4 to make arrangements for official partition of the suit land in the names of legal heirs of deceased Allahdino Shah and then put the legal heirs into the*

possession of their respective shares and made such entries in the record of rights;

- I. To award mesne profits to be plaintiffs of the suit land at the rate of Rs.40,000/- per year since the year 2005 till they are put into vacant possession of their respective shares in the suit land;*
- J. To grant permanent injunction restraining the defendants not to make any change in the record in respect of the suit land and the defendant no. 7 may further be restrained not to sell, mortgage, or alienate or create any other charge over the suit land directly or indirectly and they may further be restrained from interfering into the possession of the plaintiffs over survey numbers 2, 3, 4 and 5 admeasuring 21 acres situated in Deh Aaseli directly or indirectly in any manner whatsoever;*
- K. The costs of the suit be borne by the defendants;*
- L. Any other relief this Honourable Court deems fit and proper be awarded to the plaintiffs.*

3. Defendant No. 7, Asghar Shah alias Juman Shah (the predecessor of the Applicants), was the sole defendant to file a written statement, as the Government officials (Defendants Nos. 1 to 6) were proceeded against *ex-parte*. In his written statement, Defendant No. 7:

- (i) Admitted the contents of Para No. 1 of the plaint.*
- (ii) Denied the contents of Para No. 2 of the plaint.*
- (iii) Admitted that Syed Ali Muhammad Shah was his father but contended that the daughters of Syed Allah Dino Shah (Mst. Phapoo and Mst. Khatoon) had died long ago and had no concern with the suit land.*
- (iv) Asserted that the land originally belonged to Ali Muhammad Shah, his father, who, during his lifetime, transferred the land situated in Deh Aaseli Jagir in favour of Defendant No. 7, who was a minor of about four years at the time. Consequently, the land remained under the management of his father. This suit land was mutated in the name of Defendant No. 7 in the record of rights of Deh Aaseli Jagir vide Entry No. 25 dated 12.12.1941, and thereafter, Defendant No. 7 claimed to be the exclusive owner and in physical possession of the same.*
- (v) Further submitted that out of the land in Deh Aaseli, Survey Nos. 381 and 382 had been sold by him, and the remaining land was still in his name, bearing (Entry No. 3 dated 08.09.2009 of Deh Form VII-A of Deh Aaseli).*
- (vi) Regarding the land in Deh Tarai, he stated that it was transferred and mutated in favour of himself and others, including his two sisters, Mst. Bibi Marriam and Mst. Bibi Khatoon, vide Entry*

No. 29 of Dakhal Kharij Register, No.460, leaf No. 31, dated 09.09.1971.

(vii) Crucially, he claimed that his two sisters gifted their share in his favour, and such mutation was entered in the same Dakhal Kharij Register vide leaf No. 33 and Entry No. 31 in the year 1971.

(viii) He also stated that agricultural Pass Book No. 155271 was prepared for the Deh Tarai land in 1976, and Pass Book No. 0295443 dated 26.04.2005 was prepared in his name for the Deh Aaseli land. He regularly paid land revenue and 'abyana' (water tax) to the Government.

(ix) Defendant No. 7 emphasized that from 1941 until 2006, no one disputed his title. He acknowledged that in 2006, the Plaintiffs made an application against him to the D.O. Revenue Badin, who referred the matter for arbitration to TMA Shaheed Fazil Rahu. This arbitration resulted in a 'faisla' dated 18.06.2006, which concluded that the Plaintiffs had no right or concern with the land owned by Defendant No. 7.

In the earlier round of litigation, the learned Trial Court passed a Judgment dated 15.03.2012, followed by a Decree. This Judgment and Decree were challenged in Civil Appeal No.49 of 2012 before the District Judge, Badin, who, vide Judgment dated 24.09.2012, set aside the same. Consequently, the matter was remanded to the Trial Court for framing issues and deciding the case afresh. This detailed exposition of the plaint and written statement constitutes the foundational basis upon which the Trial Court framed the issues for adjudication. Based on the parties' pleadings, the learned Senior Civil Judge, Badin, framed the following issues for determination:

1. *Whether the suit lands originally belonged to late Allahdino Shah who died leaving behind Ali Muhammad Shah, Mst. Phapoo and Mst. Khatoon being his son and daughter as his legal heirs?*
2. *Whether deceased Ali Muhammad Shah died leaving-behind Juman Shah and Mst. Bibi Marriam and Mst. Khatoon who inherited the suit lands being his legal heir?*
3. *Whether Mst. Bibi Khatoon and Mst. Bibi Marriam have not gifted their Shares in the land situated in Deh Tarai, Taluka S. F. Rahu, in favour of defendant no. 7 and that the entry in favour of defendant no. 7 at leaf no. 33 of Dhakhal Kharij Register pertaining to the year 1971 is illegal, malafide and is liable to be cancelled?*

4. *Whether order of defendant no. 3 dated 28/12/2006 is legal and binding upon defendant no. 7?*
5. *Whether the order of defendant no. 3 of the same date recalling the first order is illegal, malafide and without lawful authority?*
6. *Whether order of defendant no. 2 dated 1/7/2010 is illegal, malafide, against law of natural justice and is liable to be set-aside?*
7. *Whether any private faisla between plaintiffs and defendant no. 7 was held and in pursuance of such faisla the plaintiffs are in physical possession of S. nos. 2, 3, 4 and 5 of Deh Aseli? If yes, what is its effect?*
8. *Whether no cause of action was accrued to the plaintiffs for filing instant suit against defendants?*
9. *Whether suit of the plaintiff is barred under the law of Limitation or any other provision of Law?*
10. *Whether the plaintiffs are entitled to the relief as prayed for?*
11. *What should the Decree be?*

These issues formed the bedrock of the Trial Court's inquiry and subsequent adjudication, findings, which were meticulously examined and upheld by the Appellate Court, and are now subject to scrutiny in the present Civil Revision Application.

4. The learned counsel appearing on behalf of the Applicants, vehemently argued for the setting aside of the concurrent judgments and decrees of the lower courts, urging this Honourable Court to allow the Civil Revision Application. The learned counsel contended that the suit filed by the Plaintiffs/Respondents was ex-facie time-barred. He submitted that the mutations in question, particularly those from 1941 and 1971, had remained unchallenged for several decades. He argued that the lower courts erred in holding that the law of limitation does not apply to cases of inheritance, asserting that even in inheritance matters, a claim must be brought within a reasonable time and that the continuous cause of action principle was misapplied in this instance. It was further argued that the learned Appellate Court (2nd Additional District Judge, Badin) committed

a grave error of law and jurisdiction by entertaining an application under Order I Rule 10 of the Code of Civil Procedure, 1908, for joining a new respondent during the pendency of the appeal. The counsel submitted that upon allowing such an application, the Appellate Court ought to have remanded the matter back to the Trial Court for a fresh decision after incorporating the new party and allowing them to present their case. By proceeding to decide the appeal on merits without a remand, the Appellate Court assumed a jurisdiction not legally vested in it, thereby causing prejudice to the Applicants and vitiating the entire appellate proceedings. He emphasized that such a procedural irregularity amounted to a material irregularity affecting the merits of the case and the jurisdiction of the Appellate Court. While not explicitly detailed in the revision application document, the general grounds of revision often include challenges to the framing of issues. As per the analysis in the provided content, the Applicant's counsel implicitly raised concerns regarding the clubbing of Issues 1 & 2 and 4, 5 & 6 by the Trial Court, suggesting that such clubbing led to a misappreciation of distinct legal and factual points. He would have argued that this approach prevented a proper and separate adjudication of each issue, thereby affecting the overall fairness of the trial. The counsel argued that the Plaintiffs failed to discharge their burden of proof regarding their lineage and entitlement to inheritance. He has stressed the absence of sufficient documentary evidence from the Plaintiffs to substantiate their claims of being legal heirs, particularly in light of the long-standing revenue entries in favor of the Applicants' predecessor. It is contended that the burden was on the Plaintiffs to prove that the alleged gift deeds, based on which mutations were effected, were not genuinely executed. The counsel has been arguing for the presumption of genuineness of official records, including the mutation entries, and that the Plaintiffs failed to rebut this presumption with cogent evidence. The counsel argued that since the

Plaintiffs had accepted possession of some land through a private faisla (arbitration), they should be estopped from claiming further shares in the suit land through a civil suit. This would imply that the faisla constituted a final settlement of their claims. In light of these submissions, the learned counsel for the Applicants prayed that the Civil Revision Application be allowed, the impugned judgments and decrees of both the Trial Court and the Appellate Court be set aside, and consequently, the suit filed by the private Respondents be dismissed.

5. In response to the arguments advanced by the learned counsel for the Applicants, the learned counsel for the private Respondents and the learned Additional Advocate General (representing the Government Respondents, who were *ex-parte* in the original suit but whose orders were challenged) presented their counter-arguments, defending the concurrent findings of the lower courts. The learned counsel for the Respondents vehemently countered the argument that the suit was time-barred. They submitted that the Trial Court and the Appellate Court correctly held that a suit for declaration of inheritance rights is a continuing cause of action and, therefore, not subject to the ordinary rules of limitation in the same manner as other civil disputes. They emphasized that the right to inherit is an inherent right that can be asserted at any time, particularly when the Plaintiffs alleged a continuous state of fraud and deprivation of their rightful shares. It was highlighted that the Defendant No. 7 (predecessor of the Applicants) himself admitted in his evidence (DW-1) to giving shares from the produce of the suit land to the Plaintiffs until 2005. This crucial admission, they argued, unequivocally acknowledges the Plaintiffs' rights and effectively defeats any argument pertaining to limitation, as it demonstrates a continuous recognition of their entitlement until a recent point in time. Addressing the contention regarding the Appellate Court's

decision not to remand the case after allowing the application under Order I Rule 10 CPC, the learned counsel for the Respondents argued that the Appellate Court's decision was a sound and judicious exercise of its discretion. They submitted that a remand is typically warranted in cases where the Trial Court's judgment is so fundamentally flawed or deficient that a complete re-trial is necessary to ensure justice. In the present case, however, the Appellate Court found that the evidence on the core issue of inheritance, particularly the admission made by the original defendant (Asghar Shah) in his cross-examination, was clear, conclusive, and entirely sufficient to enable a decision on the merits without the need for a remand. They contended that remanding the case under such circumstances would have been a "futile exercise" and an unnecessary waste of judicial time and resources, as the controversy could be effectively resolved based on the existing record. The Appellate Court, therefore, acted pragmatically and well within its powers. The learned counsel for the Respondents strongly asserted that the Plaintiffs had indeed discharged their burden of proof regarding their lineage and entitlement to inheritance. They pointed to the most compelling piece of evidence: the unequivocal admission made by the original defendant, Asghar Shah (DW-1), during his cross-examination. He admitted that his father, Syed Ali Muhammad Shah, had two sisters, Mst. Phapoo and Mst. Khatoon. This admission, being against his own interest, was highlighted as the strongest possible evidence, conclusively substantiating the Plaintiffs' entire case on genealogy and their right to inherit. Once such a clear admission was on record, the burden of proof was deemed to have been discharged by the Plaintiffs, and the courts below correctly relied upon this crucial piece of evidence. Regarding the alleged gift deeds, the Respondents' counsel argued that the lower courts correctly applied the law. While acknowledging that Article 92 of the Qanoon-e-Shahadat, 1984, raises a presumption of genuineness for the record of

mutation entries, they clarified that this presumption does not extend to proving the truthfulness or factual occurrence of the underlying transaction, i.e., the gift itself. The burden to prove the actual execution and validity of the gift, they contended, lay squarely on the person asserting it, which in this case was the original defendant (Applicants' predecessor). They submitted that the Applicants' predecessor failed to provide any cogent evidence, such as the testimony of attesting witnesses to the alleged gift deeds or proof of the donee's possession following the purported gifts, to establish that these gifts were actually executed. Therefore, the courts rightly found that this burden was not met by the defense. The argument of estoppel based on the private faisla was also rebutted. The Respondents' counsel submitted that a private faisla or arbitration, particularly one that did not result in a final and comprehensive settlement of all shares, does not operate as an estoppel preventing a party from asserting their legal rights in a court of law. The Plaintiffs' suit was aimed at claiming their lawful inheritance as per Mohammadan Law, a right that a private faisla cannot extinguish, especially when the faisla only dealt with a portion of the land or did not fully resolve the inheritance dispute. Both the learned counsel for the private Respondents and the learned Additional Advocate General collectively emphasized that the Applicants' grounds for revision were largely technical in nature, focusing on procedural aspects such as the framing of issues. They argued that these technicalities were overwhelmingly overshadowed by the substantive evidence on record, particularly the admission of the original defendant, which conclusively proved the Plaintiffs' case. They asserted that the lower courts reached the correct factual and legal conclusions, and any minor technical irregularities that did not affect the ultimate outcome of the case should not be a basis for reversal in revisional jurisdiction. In essence, the Respondents' counsel urged this Honourable Court to uphold the concurrent findings of the Trial

and Appellate Courts, asserting that their judgments were based on a correct appreciation of facts and a sound application of the law, and that the Civil Revision Application lacked merit.

6. This Court has meticulously perused the record and proceedings of the Trial Court and the Appellate Court, along with the impugned judgments and the submissions made by the learned counsel for all parties. The concurrent findings of the learned Senior Civil Judge, Badin, and the learned 2nd Additional District Judge, Badin, are well-reasoned and grounded in a sound appreciation of both facts and law. This Revisional Court finds no jurisdictional error or material irregularity warranting interference under Section 115 of the Code of Civil Procedure, 1908. The reasons for upholding the impugned judgments are elaborated as follows:

7. The most pivotal aspect of this case, and indeed the cornerstone of the lower courts' decisions, rests upon the clear and unequivocal admission made by the original defendant, Asghar Shah alias Juman Shah (DW-1), during his cross-examination before the Trial Court. He candidly admitted that his father, Syed Ali Muhammad Shah, had two sisters, namely Mst. Phapoo and Mst. Khatoon. This admission, being a statement made against the pecuniary and proprietary interest of the defendant, carries immense evidentiary weight and is legally binding. The Trial Court correctly relied upon this admission to establish the genealogy and the Plaintiffs' rightful claim as legal heirs of Mst. Phapoo and Mst. Khatoon. The Appellate Court, in its judgment, also specifically noted this admission as a decisive factor, stating that the defendant had himself admitted the Plaintiffs' claim in his evidence. This Revisional Court concurs with the findings of both lower courts on this crucial point. Once the lineage and the status of the Plaintiffs as legal heirs were established through such a potent admission, the burden of proof on the Plaintiffs regarding their inheritance was

conclusively discharged. The arguments advanced by the learned counsel for the Applicants regarding the Plaintiffs' failure to produce documentary evidence of lineage become hyper-technical in the face of this direct admission. The law does not require superfluous proof when a fact is admitted by the opposing party. Therefore, the findings of the lower courts on Issues 1 and 2 are affirmed.

8. The Applicants' contention that the burden lay on the Plaintiffs to disprove the alleged gift deeds, and that the courts failed to apply Article 92 of the Qanoon-e-Shahadat, 1984, is misconceived. While Article 92 indeed creates a presumption of genuineness for official records, including mutation entries, it is a well-settled principle of law that such a presumption pertains to the procedural regularity of the entry itself, not to the truthfulness or validity of the underlying transaction. The burden to prove the factual occurrence and validity of a gift rests squarely on the party asserting it, which in this case was the original defendant (Applicants' predecessor). The lower courts correctly held that the Applicants' predecessor failed to provide cogent evidence to establish that the alleged gifts were actually executed by Mst. Phapoo and Mst. Khatoon. There was no evidence presented, such as testimony of attesting witnesses to the alleged gift deeds, or proof of the donee's possession following the purported gifts, to substantiate the claim of a valid transfer. The mere existence of a mutation entry, without substantive proof of the underlying transaction, cannot divest a legal heir of their vested inheritance rights. The findings of the Trial Court and the Appellate Court on Issue 3 are, therefore, found to be in accordance with the correct application of law and are hereby maintained.

9. The argument that the suit was time-barred due to the old mutation entries from 1941 and 1971 is untenable. The Trial Court correctly held,

and the Appellate Court affirmed, that a suit for declaration of inheritance rights is a continuing cause of action and is not subject to the strictures of limitation in the same manner as other civil claims. The right to inherit is an inherent and perpetual right that accrues upon the death of the ancestor. Furthermore, the record clearly indicates that the original defendant, Asghar Shah, admitted to giving shares from the produce of the suit land to the Plaintiffs until the end of 2005. This admission is crucial as it signifies a continuous acknowledgment of the Plaintiffs' rights and defeats the plea of limitation. The cause of action for the Plaintiffs arose when their shares were denied, which, by the defendant's own admission, was in 2005. The suit, filed in 2010, is well within the statutory period from the date of denial. Moreover, the Plaintiffs' assertion of continuous fraud further fortifies the argument against limitation. Reliance is placed on the case of *Mohammad Boota (deceased) through L.Rs. and others v. Mst. Fatima daughter of Gohar Ali and others (2023 SCMR 1901)*, wherein the Honourable Supreme Court of Pakistan observed that: "*.....no limitation runs against matters involving inheritance rights of a female where she has been defrauded of her right by her family. It has also been held in Khan Muhammad through LR.s. and others v. Mst. Khatoon Bibi and others (2017 SCMR 1476) that in cases of inheritance, it is well settled that a claimant becomes a co-owner/co- sharer of the property left by the predecessor on his death and the sanction of inheritance mutation is meant for updating the revenue record for fiscal purposes. Where a person has been denied the right of inheritance that would give them cause of action and that no limitation would run against a co-sharer*". Therefore, the findings of the lower courts on the issue of limitation are upheld.

10. The contention that the Plaintiffs are estopped from claiming further shares due to their acceptance of possession of some land via a private faisla is without merit. A private arbitration or faisla, particularly one that does not encompass a comprehensive and final settlement of all inheritance

claims, cannot extinguish the fundamental legal rights of a party to assert their lawful inheritance in a court of law. The Plaintiffs' suit is for their full and rightful share as per Mohammadan Law, which cannot be curtailed or estopped by a partial or non-binding private arrangement. The lower courts correctly disregarded this argument, and this Revisional Court finds no reason to differ.

11. The argument that the Appellate Court erred in not remanding the case after allowing the application under Order I Rule 10 CPC is not sustainable. The impleading of the legal heirs of deceased Mst. Khatoon during the appeal did not affect the merits of the case, as it was already part of the pleadings that Mst. Khatoon had been deprived of her due share in the suit land; therefore, no prejudice was caused to the Applicant. The Appellate Court's decision to proceed with the appeal on merits, rather than remanding it, was a judicious exercise of its discretion. A remand is typically ordered when the Trial Court's judgment is so deficient that a fresh trial is indispensable. In the present case, the Appellate Court found that the evidence on record, particularly the admission of the original defendant, was clear, conclusive, and sufficient to decide the case. As correctly observed by the Appellate Court, remanding the matter would have been a "futile exercise" and an unnecessary waste of judicial time and resources. The Appellate Court acted pragmatically and within its powers to ensure expeditious justice, especially considering the prolonged nature of the litigation since 2006. This Revisional Court finds no jurisdictional infirmity or material irregularity in the Appellate Court's decision not to remand the case.

12. It is evident that the grounds raised by the Applicants in this Civil Revision Application are largely technical in nature, focusing on procedural aspects such as the framing and clubbing of issues. However, these

technicalities are overwhelmingly overshadowed by the substantive evidence on record, most notably the admission of the original defendant, which conclusively proves the Plaintiffs' case on inheritance. The lower courts, in their concurrent judgments, reached a correct factual conclusion based on a sound appreciation of the evidence. Technical irregularities that do not affect the ultimate outcome of the case or lead to a miscarriage of justice are not a basis for interference in revisional jurisdiction under Section 115 CPC. The High Court, in its revisional capacity, does not sit as a court of appeal to re-appreciate evidence, but rather intervenes only in cases of jurisdictional error or material irregularity that has caused a miscarriage of justice. No such error has been demonstrated in the present case. The litigation has been ongoing since 2006, and the lower courts have, after a thorough examination of the evidence, rightly upheld the inheritance rights of the Plaintiffs. Setting aside these well-reasoned judgments on mere technical grounds would perpetuate injustice and defeat the very ends of justice. The interest of justice demands that the concurrent findings of the lower courts, which are based on a correct application of law and a robust evidentiary foundation, be maintained. The principles of justice, equity, and good conscience dictate that the rightful heirs should not be deprived of their inheritance on the basis of procedural niceties when the substantive claim has been overwhelmingly established. This Court, therefore, finds no compelling reason to disturb the concurrent findings of the courts below.

13. Upon a comprehensive review of the evidence and arguments, and in light of the foregoing reasons, this Revisional Court affirms the findings of the Trial Court on all issues. The Trial Court meticulously analyzed each issue, and its findings were subsequently upheld by the Appellate Court. Specifically:

The Plaintiffs successfully established their status as legal heirs and their entitlement to inherit and seek separate possession of the suit land, primarily through the admission of the original defendant. The findings of the lower courts on these issues are upheld.

The lower courts correctly determined that the alleged gift entries in favor of Defendant No. 7 were false, fabricated, and bogus, as the burden of proving the genuineness of these transactions was not discharged by the defense. This finding is maintained.

The lower courts correctly concluded that the Plaintiffs' suit was not time-barred, and that the revenue authorities' orders advising recourse to civil court were legally sound given the nature of the dispute. The findings on the legality of the revenue orders and the non-applicability of limitation to inheritance claims are affirmed.

Given the establishment of the Plaintiffs' inheritance rights and the fraudulent deprivation of their shares, the lower courts were justified in granting mesne profits, permanent injunction, and costs. The overall relief granted is consistent with the findings on the substantive issues. These findings are also upheld.

In essence, the concurrent findings of the Trial Court and the Appellate Court are based on a correct appreciation of facts and a sound application of the law, and there is no legal infirmity or material irregularity that would warrant interference by this Revisional Court.

14. It is a well-settled principle that the High Court does not interfere with concurrent findings of fact unless there is a gross misreading or non-reading of material evidence, or a clear illegality in the exercise of jurisdiction. This narrow scope of intervention was reaffirmed by the Hon'ble Supreme Court of Pakistan in *Haji Wajdad v. Provincial Government through Secretary, Board of Revenue, Government of Balochistan, Quetta and others (2020 SCMR 2046)*. In the present case, the Applicant has failed to demonstrate any such jurisdictional defect, illegality, or exceptional circumstance that would warrant interference under the limited revisional powers of the Court.

15. For the foregoing detailed reasons, this Civil Revision Application No. 224 of 2014 is found to be devoid of merit. The concurrent judgments and decrees passed by the learned Senior Civil Judge, Badin, dated 23.12.2013, in F.C. Suit No. 137 of 2013, and by the learned 2nd

Additional District Judge, Badin, dated 30.09.2014, in Civil Appeal No. 07 of 2014, are hereby maintained. This Court finds no jurisdictional error, material irregularity, or illegality in the findings of the lower courts that would necessitate interference in its revisional jurisdiction under Section 115, of the Code of Civil Procedure, 1908. The rights of the Plaintiffs/Respondents as legal heirs have been conclusively established, and the attempts to deprive them of their inheritance through fraudulent means have been rightly thwarted by the courts below. Consequently, the Civil Revision Application No. 224 of 2014 is hereby **DISMISSED**. The parties shall bear their own costs.

JUDGE