

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Civil Revision Appln. No. S-52 of 2020

Applicants : Syed Wadhal Shah s/o Shahanshah, Syed
Through Mr. Asif Aman, Advocate

Respondents : 1. Mukhtiarkar (Revenue), Mehrabpur
2. Assistant Commissioner, Mehrabpur
3. Tapedar, Deh Dewan, Mehrabpur
4. Deputy Commissioner, Naushahro Feroze
5. State/Barrage Mukhtiarkar, Naushahro Feroze
6. Province of Sindh to be served through
Deputy Commissioner, Naushahro Feroze
7. Syed Arbab Ali Shah s/o Syed Meeral Shah
8. Wazeer Ahmed s/o Allah Bux, Nangore
Mr. Najeebullah Jalbani, Advocate for
Respondent No.07
Mr. Ghulam Abbas Kubar, Assistant A.G

Date of hearing : 13.10.2025
Date of Order : 13.11.2025

ORDER

KHALID HUSSAIN SHAHANI, J.— This Civil Revision Application arises from the judgment and decree dated January 9, 2020, rendered by the learned District Judge and Civil Model Appellate Court, Naushahro Feroz, in Civil Appeals No.276/2019 and 304/2019. Both appeals challenged the common judgment dated August 20, 2019 and decree dated August 22, 2019 passed by the Senior Civil Judge, Mehrabpur, in F.C Suit No.104/2017. The trial court had dismissed the applicant's suit but concurrently found against respondent Syed Arbab Ali Shah concerning ownership and documentary evidence. Dissatisfied parties approached the appellate court, which affirmed the findings on Issue No.1, set aside others, and directed the Revenue Officer to re-examine the matter and issue a lawful order. The applicant has now approached this Court to impugn such findings.

2. The controversy germinates from the applicant's suit for declaration, cancellation, and permanent injunction concerning (2-02) acres in Deh Diwan, Taluka Mehrabpur (the suit land). The applicant claims that

although the land was originally government property, it was subsequently allotted to him at full consideration by respondent No.5, supported by Qabooliat Form-A No.6775 dated February 2, 1974. He asserts timely payment of installments, mutation in his favor recorded on February 28, 1974, and issuance of T.O Form No.21 on February 17, 1991, with mutation entry maintained on March 16, 1991. Notwithstanding, after a fire on December 27, 2007, which destroyed revenue records, re-entries were to be made on the basis of preexisting documents. The applicant's attempts to restore his rights through official channels faltered, compelling him to impugn the record through this suit. Initially restrained to official respondents, the plaintiff later included private parties, thereby amending the relief sought.

3. The official respondents disputed the applicant's ownership, contending that the suit property measures only (1-06) acres per official records and denying his proprietary claim. Respondents No.7 and 8 similarly asserted competing ownership claims and sought dismissal. Upon full adjudication, the trial court dismissed the suit as not maintainable, also finding that respondents No.7 and 8 failed to establish possession or ownership.

4. Upon hearing learned counsel for the parties, perusal of the trial and appellate records reveals the well-established principle that revisional jurisdiction is circumscribed, especially where concurrent factual findings are grounded in cogent reasoning and evidence. Both courts below uniformly held the suit barred by law, particularly under Section 172 of the West Pakistan Land Revenue Act and Section 36 of the Colonization Act. The applicant's reliance on secondary documentary evidence, unsupported by primary evidence or satisfactory explanation, further weakened his case. Likewise, respondent No.7 relied on secondary evidence without cross-examination or official witness examination to validate their claim. The trial court rightly discredited secondary evidence from both sides.

5. Learned counsel contended the suit's maintainability under Section 53 of the West Pakistan Land Revenue Act, which provides "*If any person considers himself aggrieved by an entry in a record-of-rights or in a periodical record as to any right of which he is in possession, he may institute a suit for a declaration of his right under Chapter VI of the Specific Relief Act, 1877 (Act No.1 of 1877)*". However, it is manifest that the applicant did not sue as an aggrieved party over an existing entry but rather sought a fresh entry based on old documents whose authenticity the Revenue authorities contested. The procedure to reconstruct revenue records rests solely with the Revenue hierarchy, which has issued specific Standard Operating Procedures and notifications. Therefore, Section 53's remedy is inapplicable, a stance rightly affirmed by the appellate court that directed the applicant to exhaust revenue remedies under Section 44 of the Land Revenue Act prior to adjudication by civil courts. The applicant's failure to pursue this administrative channel, despite clear directions, undercuts his revision plea. Hence, this Court is constrained to uphold the lower courts' findings on maintainability.

6. Regarding divergent findings on Issues Nos. 2 to 5, settled jurisprudence mandates that when appellate findings materially conflict with trial findings, the appellate court's well-reasoned conclusions generally prevail, provided they are evidence-based and logical, as expounded in *Madan Gopal v. Maran Bepari* (PLD 1969 SC 617), the Supreme court held, "*If the finding of fact reached by the first Appellate Court is at variance with that of the trial Court, the former will ordinarily prevail, although it would not possess the same value or sanctity as a concurrent finding. Such a finding by the lower Appellate Court will be immune from interference in second appeal only if it is found to be substantiated by evidence on the record and is supported by logical reasoning duly taking note of the reasons adduced by the first appellate Court which has been disfavored in the contrary finding*". This dictum is also reinforced in cases of *Amjad Ikram v. Mst. Asia Kausar* (2015 SCMR 1), and

Muhammad Nawaz v. Haji Muhammad Baran Khan (2013 SCMR 1300). The principles articulated in *Muhammad Hafeez v. District Judge Karachi East* (2008 SCMR 398) further reinforce the preference for appellate determinations unless demonstrably arbitrary or contrary to evidence.

7. This case evidences competing claims of ownership, conflicting mutation entries, and inconsistent official stances, including assertions of government ownership and favorable orders from the Additional Deputy Commissioner Revenue (ADC). The appellate court's prudent decision to remit the matter to the revenue authorities for further factual inquiry and adjudication aligns with procedural propriety and judicial restraint. No persuasive argument or evidence has been brought forth to impugn these findings.

8. Consequently, this revision application, devoid of substantive merit, is dismissed with no order as to costs.

J U D G E