

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Civil Revision Appln. No. S-216 of 2025

Applicants : 1) Abdul Sattar @ Lodi s/o Muhammad Ramzan
2) Abdul Ghaffar @ Mashooq Ali s/o Muhammad Ramzan
3) Abdul Wahab s/o Muhammad Ramzan
4) Abdul Baqi s/o Muhammad Ramzan
5) Abdul Wahab s/o Jan Muhammad
Through Mr. Munawar Hussain Memon, Advocate

V E R S U S

Respondents : 1) Naimatullah s/o Wali Muhammad
2) Inayatullah s/o Wali Muhammad
a) Naimatullah (brother)
b) Hidayatullah (brother)
c) Attaullah (brother)
d) Mst. Shamshad (sister)
3) Hidayatullah s/o Wali Muhammad
4) Attaullah s/o Wali Muhammad
5) Mst. Shamshad Begum d/o Wali Muhammad (deceased)
Through her legal heirs
a) Allah Warrayo (husband)
b) Zahid Ali (son)
c) Shahid Ali (son)
d) Mst. Rubeena Naz (sister)
e) Sajjad Ali (son)
All by caste Shaikh
6) Mukhtiarkar Revenue Taluka Sobhodero
7) Province of Sindh through Deputy Commissioner
Khairpur.

Date of hearing : 26.02.2026

Date of order : 26.02.2026

ORDER

KHALID HUSSAIN SHAHANI, J.— The instant Civil Revision Application has been instituted under Section 115 of the Code of Civil Procedure, 1908, calling in question the legality and sustainability of the judgment and decree dated 25.09.2025 passed by the learned Additional District Judge, Gambat, in Civil Appeal No.35 of 2025, whereby the appeal preferred by the present applicants was dismissed and the judgment and decree dated 08.04.2025 rendered by the learned Senior Civil Judge, Gambat, in F.C. Suit No.86 of 2012 was upheld in its entirety.

2. The respondents/plaintiffs, being *dominus litis* before the court of first instance, instituted F.C Suit No.86 of 2012 seeking declaration, recovery of possession, mesne profits and permanent injunction in respect of agricultural land bearing Survey Nos.86/1, 86/2, 93, 1265, 1266, 70, 71 and 281, measuring 24-33 acres, situated in Deh Hingorja, Taluka Sobhodero, District Khairpur. The plaintiffs asserted that the suit property had been lawfully acquired by their predecessor-in-interest through registered sale deeds dated 05.04.1975, 22.04.1975 and 02.06.1991, and that upon his demise the revenue record was mutated in favour of the legal heirs through *foti* entry No.336 dated 31.07.2008.

3. It was further pleaded that the private defendants were cultivating the suit land on *Harap/Batai* basis and were regularly tendering their share of produce, but shortly prior to institution of the suit they discontinued such payments, asserted competing rights in the property and unlawfully dispossessed the plaintiffs, thereby compelling them to seek redress through judicial process.

4. The private defendants contested the suit by filing a written statement, wherein the material averments of the plaint were denied and objections were raised with regard to maintainability of the suit, limitation, authenticity of the plaintiffs' title documents, and the alleged fact of the plaintiffs' prior possession. Upon framing of issues and recording of evidence adduced by both sides, the learned trial Court, through judgment and decree dated 08.04.2025, declared the plaintiffs to be lawful owners of the suit land, directed delivery of possession in their favour and decreed mesne profits, subject to quantification through the report of the Mukhtiarkar concerned.

5. The present applicants, feeling aggrieved by the said judgment and decree, preferred Civil Appeal No.35 of 2025 before the learned Additional District Judge, Gambat. The appellate Court, through judgment and decree dated 25.09.2025, dismissed the appeal and affirmed the findings recorded by the learned trial Court in their entirety.

6. Learned counsel appearing on behalf of the applicants contended that both courts below failed to appreciate the law and the evidence in their proper perspective. It was argued that the plaintiffs were under a legal obligation to establish the due execution and legal validity of the registered sale deeds strictly in accordance with the requirements of law, and that mere production of documents on record could not be treated as proof of their contents. It was further contended that the burden of proof was wrongly shifted upon the defendants and that both courts below materially misread the evidence available on the record.

7. Learned counsel further submitted that the deposition of Inayatullah, who expired prior to being subjected to cross-examination, could not legally be read in evidence against the defendants. According to him, if such testimony is excluded from consideration, the plaintiffs' case would remain without legally sufficient proof of both title and possession. It was also argued that the plaintiffs failed to establish the alleged Hari relationship with the defendants or to demonstrate that they had been in actual and continuous possession of the suit property prior to the alleged act of dispossession.

8. Conversely, the case set forth by the respondents before the courts below was that the plaintiffs had produced original registered sale deeds along with supporting revenue entries, including entry No.336, and had examined relevant witnesses, including the *Tapedar*. It was further pointed out that after remand of the matter, Naimatullah was examined as attorney on behalf of the remaining plaintiffs. The defendants, on the other hand, relied principally upon an unregistered *Iqrarnama* and certain *Dhall* receipts but failed to produce any registered instrument of title in favour of their predecessor-in-interest.

9. I have given anxious consideration to the arguments advanced by learned counsel for the applicants and have examined the record with his assistance. The dispute in the present matter essentially relates to title and possession of the suit property. The plaintiffs founded their claim upon

registered sale deeds dated 05.04.1975, 22.04.1975 and 02.06.1991, and further relied upon revenue entry No.336 dated 31.07.2008 reflecting the inheritance mutation in favour of the legal heirs of Wali Muhammad. These documents were brought on record through the plaintiffs' evidence and were corroborated by the testimony of the *Tapedar* who produced the relevant revenue entries before the trial Court.

10. The learned appellate Court, while affirming the decree of the court of first instance, specifically noticed that the plaintiffs had produced the registered sale deeds and supporting revenue record establishing their title, whereas the defendants had failed to produce any registered document demonstrating conveyance of the suit property in favor of their predecessor. The principal document relied upon by the defendants was an unregistered *Iqrarnama* dated 16.09.1990 together with certain *Dhall* receipts. The appellate Court further observed that even those receipts reflected payment made on behalf of Wali Muhammad, predecessor-in-interest of the plaintiffs, and therefore did not materially advance the defendants' claim of ownership.

11. Insofar as the objection relating to the evidentiary value of the statement of the deceased witness Inayatullah is concerned, the record reflects that the matter had earlier been remanded by the appellate Court through judgment dated 17.11.2021 with directions to permit the plaintiffs to examine one witness from the list already filed and to afford the defendants opportunity of cross-examination. In compliance with the said directions, Naimatullah was examined as attorney of the remaining plaintiffs. It thus becomes evident that the concurrent findings recorded by the courts below were not founded solely upon the uncrossed testimony of the deceased witness Inayatullah but upon the entirety of documentary material and oral evidence subsequently brought on record after remand. The objection, therefore, lacks substance when tested against the record.

12. The contention that the plaintiffs failed to prove the registered sale deeds strictly in accordance with the requirements of Articles 79 and 117 of the *Qanun-e-Shahadat* Order, 1984 was also raised before the courts below. Both courts, upon appreciation of the evidence available on record, concurrently found that the plaintiffs' title stood established through registered instruments of conveyance dated 05.04.1975, 22.04.1975 and 02.06.1991, coupled with the corresponding revenue entries including *foti* entry No.336 dated 31.07.2008. These documents formed part of the record and were produced through the plaintiffs' evidence, while the relevant revenue entries were corroborated through the testimony of the *Tapedar*. Significantly, the defendants failed to produce any registered conveyance, mutation entry or other documentary record demonstrating transfer of the suit property in favor of their predecessor-in-interest. In these circumstances, the concurrent conclusion reached by the courts below that the plaintiffs had established their title on the strength of registered instruments supported by the revenue record cannot be termed arbitrary or legally unsustainable. It is well settled that a registered document carries a presumption of authenticity and due execution unless rebutted through strong and convincing evidence to the contrary. In *Mst. Zaitoon Bibi v. Nazar Hussain and others* (2014 SCMR 1469), the Hon'ble Supreme Court has held that a registered sale deed carries a presumption of correctness and its contents are presumed to have been acted upon unless effectively rebutted by credible evidence. No such rebuttal is discernible from the record in the present case.

13. The learned trial Court also examined the objections relating to maintainability and limitation and concluded that the suit, being one for declaration, recovery of possession, mesne profits and permanent injunction based upon title and alleged illegal dispossession, was maintainable and not barred by any provision of law. The learned appellate Court, upon reappraisal of the record, affirmed the said conclusion. The revisional jurisdiction of this Court under Section 115 C.P.C is supervisory in nature and does not extend to

reassessment or reappraisal of evidence merely because another view of the evidence may be possible. Interference is warranted only where the subordinate court has exercised jurisdiction not vested in it by law, failed to exercise jurisdiction so vested, or has acted in the exercise of its jurisdiction illegally or with material irregularity. In the present case, the learned counsel for the applicants has been unable to demonstrate that the impugned judgments suffer from any jurisdictional defect, patent perversity, or misreading or non-reading of material evidence. The record rather reflects that both courts below considered the pleadings, framed the necessary issues, evaluated the oral and documentary evidence placed before them and returned concurrent findings supported by the material available on record. In such circumstances, the concurrent findings of fact do not call for interference in exercise of revisional jurisdiction. No misreading or non-reading of material evidence, nor any jurisdictional defect or material irregularity in the exercise of jurisdiction by the courts below, has been pointed out from the record which could warrant interference by this Court in exercise of its revisional jurisdiction.

14. For the foregoing reasons, this Civil Revision Application, being devoid of merit and presenting no ground warranting interference in revisional jurisdiction, is dismissed in *limine*. All pending interlocutory application(s), if any, shall stand disposed of in the above terms.

J U D G E