

Judgment Sheet
IN THE HIGH COURT OF SINDH, KARACHI
Civil Revision No.194 of 2010
[Sohail Anwar & 2 others vs. Pir Ghulam Ali Shah and others]

Date	Order with signature of Judge
Applicants:	Through Mr.Muhammad Ayub, Advocate.
Official Respondents	Through Ms. Deeba Ali Jaffer.
Private Respondents	Nemo
Date of Hearing & Judgment	16-01-2026

ARSHAD HUSSAIN KHAN, J. - Through this Civil Revision, the applicants have impugned the concurrent findings of the two courts below and seek to set aside the judgment and decree dated 06.07.2010 and 12.07.2010 respectively passed by learned IIInd Additional District Judge, Thatta, in Civil Appeal No. 10 of 2009, whereby the lower appellate court, while dismissing the appeal, upheld the judgment and decree dated 25.03.2009, passed by the learned Senior Civil Judge, Thatta, in F.C. Suit No. 73 of 2006, through which the suit filed by the respondents/plaintiffs was decreed.

2. Briefly stated, the facts of the case reveal that the controversy relates to agricultural land measuring 152-74 acres, comprised of various block numbers, situated in Deh Jhaloo, Tapo Ghorabari, Taluka Keti Bunder, District Thatta (subject land). The respondents/plaintiffs claimed title and possession over the subject land on the basis of a government allotment made during the years 1980–81 under the Zamindari Kharo Tract conditions, followed by the issuance of T.O. Form and corresponding revenue entries. It was further asserted that after the death of one of the original allottees, Hashim Shah, in the year 1988, mutation (Foti Khata Badal) was effected in favour of his legal heirs in the year 1994. It was alleged that the appellants/defendants, in connivance with lower revenue staff and by practicing fraud, managed to fabricate a forged sale agreement, an alleged irrevocable power of attorney dated 15.06.1980, and a sale deed dated 04.06.1998, notwithstanding the prior death of Pir Hashim Shah, and on the basis thereof procured illegal and bogus revenue entries transferring the suit land in their favour without the knowledge or consent of the plaintiffs. It was further pleaded that upon discovering such fraudulent entries, the

plaintiffs approached the revenue authorities, whereupon the Executive District Officer (Revenue), Thatta, ultimately set aside the impugned orders. Apprehending dispossession and continued interference, the plaintiffs thereafter instituted Suit No. 73 of 2006, seeking a declaration that the impugned documents were illegal, void ab initio, and not binding upon them, along with a decree for permanent injunction to protect their peaceful possession.

3. The aforesaid suit was duly contested by the applicants/defendants by filing their written statement and leading evidence. Upon framing of issues, recording of evidence, and hearing the parties, the learned trial court, vide judgment dated 25.03.2009, decreed Suit No. 73 of 2006 in favour of the respondents/plaintiffs. The said judgment and decree were assailed by the defendants before the learned lower appellate court in Civil Appeal No. 10 of 2009; however, the appeal was dismissed, vide judgment dated 06.07.2010, thereby maintaining the judgment and decree passed by the learned trial court. Hence, the present civil revision has been filed by the applicants against the concurrent findings of the two courts below.

4. Learned counsel for the applicants contended that the impugned judgments and decrees passed by the learned trial court and the appellate court suffer from material illegalities and jurisdictional errors, as both the courts failed to properly exercise jurisdiction vested in them by law and recorded findings in a cursory manner without correctly appreciating the pleadings and evidence on the record. It was argued that there was misreading and misappreciation of both oral and documentary evidence, particularly the registered sale agreement, irrevocable power of attorney, and sale deed, which carry legal sanctity and presumption of correctness, yet were ignored without lawful justification. Learned counsel has further submitted that the crucial issue relating to the alleged death of Pir Hashim Shah prior to execution and registration of the impugned documents was not properly examined as the death certificate relied upon was neither duly proved nor corroborated by independent evidence. It was also contended that the appellate court failed to independently reappraise the entire evidence and to address all material issues, especially those concerning execution of registered documents and validity of revenue entries,

rendering the appellate judgment legally deficient. According to learned counsel, the findings of the courts below are based on conjectures and surmises, ignore material evidence produced by the applicants, and have resulted in grave miscarriage of justice, thus warranting interference in revisional jurisdiction.

5. In the instant revision, none is present on behalf of respondents Nos.1 to 6, though they were served with the notices issued to them. Earlier, the record shows that Mr. Deedar Hussain Qureshi, Advocate, appeared for the respondents in the years 2014 and 2018; thereafter, he did not turn up. On 13.01.2025, Mr. Shabihul Hussain Qureshi appeared on behalf of respondent No.1; however, he also failed to appear further in the matter. Since the matter has been pending since last 15 years, considering that sufficient time has been accorded to the respondents to contest the present appeal, which has been fixed for hearing since 2018 and has on many occasions been dismissed for non-prosecution, it has been taken up today for hearing.

6. Ms. Deeba Ali Jaffer, Learned Assistant Advocate General, submitted that the impugned judgments and decrees in Civil Suit No.73 of 2006 and Civil Appeal No.10 of 2009 are based on correct appreciation of evidence and proper application of law. She fully supported the findings of the trial and appellate courts, contending that the Civil Revision filed by the applicants is misconceived and no interference is warranted. She prayed for dismissal of present revision application by maintaining the impugned judgments and decrees in their entirety.

7. I have heard the arguments of the learned counsel for the applicants and the learned AAG and with their assistance have perused the material available on record.

8. Through the present Civil Revision, the applicants have assailed the concurrent findings mainly on the grounds of misreading and non-reading of evidence, failure to properly consider the registered documents, and alleged improper reliance upon the death certificate of Hashim Shah, contending that the courts below failed to exercise jurisdiction vested in them and ignored material legal aspects, thus warranting interference under section 115, C.P.C.

9. Conversely, the respondents alleged that the applicants, in collusion with revenue officials, fabricated a sale agreement, power of attorney, and a registered sale deed, allegedly originating from the year 1980 and culminating in a sale deed of 1998, despite the admitted death of Hashim Shah much earlier. It was further alleged that duplicate T.O. Forms and illegal revenue entries were fraudulently created to lend colour of legality to the impugned transaction, which entries were subsequently set aside by the DDO (Revenue), Mirpur Sakro, vide order dated 03.05.2005.

10. The learned trial court, after framing thirteen issues and appreciating the oral as well as documentary evidence produced by the parties, returned a categorical finding that the alleged power of attorney, sale agreement, and sale deed relied upon by the applicants were not proved in accordance with law. It was further held that the revenue entries procured in favour of the applicants, including the duplicate T.O. Forms, were the result of manipulation and fraud, having been created to lend colour of legality to an otherwise invalid transaction. The learned trial court also took note of the order dated 03.05.2005 passed by the DDO (Revenue), Mirpur Sakro, whereby such illegal and bogus entries were set aside, and on the basis of the totality of evidence concluded that the respondents were lawful allottees and remained in possession of the suit land.

11. The learned appellate court, upon reappraisal of the evidence, held that the appellants failed to establish the execution of any valid sale agreement or irrevocable general power of attorney in their favour. It was further observed that at the relevant time the respondents were not lawful owners of the suit land, as the same had not been fully paid for and they held the land merely as grantees; consequently, they lacked the legal competence to transfer or sell the suit land. The learned appellate court also noted that the appellants neither produced independent and reliable evidence in support of their claim nor examined the authors or attesting witnesses of the alleged documents. In view of these deficiencies, and finding no illegality or infirmity in the findings of the learned trial court, the learned appellate court affirmed the same, holding that the respondents' title and possession over the suit land remained lawful and that the appellants' claim,

founded upon fabricated entries, lacked merit, and accordingly dismissed the appeal.

12. It is settled law that revision under Section 115 C.P.C. is a supervisory jurisdiction, to be exercised to correct jurisdictional errors, illegality, or material irregularity in subordinate court proceedings. Upon careful review of the concurrent findings of the trial and appellate courts, this Court finds no illegality, irregularity, or misapplication of law warranting interference. The courts below correctly applied the principles regarding proof of execution of registered documents, genuineness of revenue entries, and lawful ownership. Learned counsel for the Applicants also fails to controvert the concurrent findings of the courts below through any document or evidence available on the record.

13. It is well settled that revision is a matter between the higher and subordinate courts, and the right to seek revision is a privilege, not an absolute right. Section 115, C.P.C., provides the framework for such revision, divided into two parts: the first enumerates conditions under which the Court may interfere, and the second specifies the types of orders susceptible to revision. The apex Court has consistently held that the jurisdiction under Section 115 is discretionary, but this discretion must be exercised according to law and principles laid down by superior courts; it cannot be refused arbitrarily. The legislature has framed Section 115, C.P.C., as follows:

"The High Court may call for the record of any case decided by a subordinate court in which no appeal lies, and if such subordinate court appears (a) to have exercised jurisdiction not vested in it by law, or (b) to have failed to exercise a jurisdiction so vested, or (c) to have acted in the exercise of its jurisdiction illegally or with material irregularity, the High Court may make such order as it thinks fit. Provided that an applicant shall furnish copies of pleadings, documents, and the order of the subordinate court, and the High Court shall, except for reasons to be recorded, dispose of the application without calling for the record."

A plain reading shows that the High Court, while entertaining a revision, exercises supervisory jurisdiction to ensure that the subordinate court has acted within its jurisdiction and that its proceedings are free from illegality or material irregularity. This

principle has been upheld in numerous judgments, including *Muhammad Sadiq v. Mst. Bashiran and 9 others [PLD 2000 SC 820]*.

14. The upshot of the above is that no illegality, irregularity or jurisdictional error, in the concurrent findings of the learned courts below, which resulted into the impugned judgments and decrees, could either been pointed out or observed. Resultantly, the revision in hand being devoid of any force and merit is dismissed.

JUDGE

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