

HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Civil Revision Application No.S-56 of 2026

[Mir Muhammad Hassan and 02 others v. Mir Allah Bachayo @ Mir Mazhar and others]

Applicants by : Mr. Noor Ahmed Memon, Advocate

Respondents : Nemo.

Date of Hearing : 13.05.2026

Date of Decision : 13.05.2026

ORDER

ARBAB ALI HAKRO J:- The applicants have invoked the revisional jurisdiction of this Court under section 115, C.P.C, calling in question the judgment and decree dated 06.04.2024 passed by the learned Senior Civil Judge-III, Mirpurkhas (“**trial Court**”) in F.C. Suit No.23 of 2013 (Old No.04 of 2009), whereby the suit was partly decreed in favour of the plaintiff and the judgment dated 22.01.2026 and decree dated 27.01.2026, passed by the learned Additional District Judge-I, Mirpurkhas (“**appellate Court**”) in Civil Appeal No.84 of 2024, whereby the appeal preferred by the present applicants was dismissed and the decree of the trial Court was maintained.

2. The factual background, as emerges from the plaint, is that the plaintiff claimed ownership of agricultural land admeasuring 312-39 acres situated in Deh Bhambhra, Taluka Samaro, District Umerkot. During his minority, the land was managed by his mother, defendant No. 4, through her brother, Mir Nabi Bux. The plaintiff pleaded that in the year 2007, he discovered that 100-23 acres of his land had been mutated in favour of defendant No.1 and 106-03 acres in favour of defendant No.2 on the basis of an alleged oral sale statement dated 19.02.1973, purportedly made by his mother before the Mukhtiarkar Digri. Upon obtaining a copy of the statement, defendant No. 4

categorically denied execution, denied her signature, denied having appeared before the Mukhtiarkar, and alleged fraud and collusion between defendants Nos. 1 to 3 and the revenue staff. The plaintiff further pleaded that subsequent transactions, including a family arrangement dated 20.06.1993 and a gift dated 08.12.2006 in favour of defendant No. 3, were equally void, as they rested on the same fraudulent foundation. He sought declaration, possession, cancellation of revenue entries, injunctions, mesne profits and damages.

3. Defendant No.1 contested the suit by asserting that defendant No.4 had voluntarily sold 206-26 acres of the plaintiff's land and 16-18 acres of her own land on 19.02.1973 before the Mukhtiarkar Digri, after receiving consideration, and that the plaintiff, upon attaining majority in the year 1980, had full knowledge of the transaction but never challenged it. He further pleaded that on the same date, defendant No.4 and her sister, Mst. Zeenat exchanged their lands, as reflected in mutation entry No. 29, and the plaintiff himself subsequently sold 79-00 acres in 1983-84 after obtaining sale certificates, thereby demonstrating his knowledge of the 1973 transaction. Defendants Nos. 2 and 3 adopted the written statement of defendant No.1. Defendant No.4, however, filed a written statement admitting the plaintiff's claim and denying execution of the impugned sale statement. The official defendants were proceeded ex parte.

4. The trial Court framed issues relating to maintainability, limitation, validity of the alleged sale statement, genuineness of signatures, legality of subsequent transactions, entitlement to mesne profits and damages and alleged fraud. The plaintiff examined seven witnesses and produced Patwari Form XV entries Nos.29 and 30, Deh Form VII-A and VII-B entries, irrigation records, revenue books, sale certificates and certified copies of evidence recorded in connected proceedings. The defendants examined defendant No. 1 and produced certain revenue entries, the guardianship of 1972, and other

documents. After appraisal of the evidence, the trial Court held that the impugned sale statement dated 19.02.1973 was forged and fabricated; that defendant No.4, being a pardah-nashin lady, had denied execution; that the attesting witness was a minor at the relevant time; that the defendants failed to examine the Mukhtiarkar, the Tapedar or any attesting witness; that the signatures attributed to defendant No.4 were not genuine; that the essential ingredients of a valid sale were not proved; that the suit was within time as fraud came to light in the year, 2007 and that all subsequent transactions built upon the void foundation collapsed. The suit was decreed to the extent of declaration, possession, mandatory and permanent injunction, while mesne profits and damages were declined.

5. The appellate Court, upon reappraisal of the entire record, affirmed the findings of the trial Court. It held that the impugned sale statement was not proved; that the attesting witness was a minor; that the defendants failed to examine material witnesses; that the Mukhtiarkar Digri had not been shown competent to record a statement regarding land in Taluka Samaro; that the plaintiff came to know of the fraud only in 2007; that mutation entries do not confer title and that fraud and collusion stood established. The appeal was dismissed.

6. In the present revision, the applicants have raised numerous grounds, including that defendant No.4's written statement was not a valid written statement under Order VIII Rules 3 and 5, C.P.C; that the courts below relied on evidence recorded in another suit; that the exchange entry No.29 was not challenged; that defendant No.4 was competent to sell the land as she had obtained guardianship permission in 1972; that the attesting witness was not a minor; that NADRA data was wrongly relied upon; that the courts misapplied section 54 of the Transfer of Property Act; that the courts wrongly held that Mst. Shamim Akhtar was not the wife of defendant No.1; that the oral sale

statements recorded by Mukhtiarkar were valid prior to 1994; that the courts failed to appreciate that two statements were recorded on the same date; that the Mukhtiarkar could not be traced due to lapse of time, and that the suit was barred by limitation.

7. Learned counsel for the applicants has reiterated these grounds and argued that the concurrent findings are perverse and warrant interference.

8. Heard arguments and examined the record with care.

9. The revisional jurisdiction of this Court under section 115, C.P.C., is supervisory and not appellate. Interference is permissible only where the subordinate court has exercised jurisdiction not vested in it, failed to exercise jurisdiction vested in it, or acted illegally or with material irregularity. Concurrent findings of fact cannot be disturbed unless shown to be the result of misreading or non-reading of material evidence or are otherwise perverse.

10. Examining the record through this lens, no jurisdictional defect, illegality or material irregularity is made out. Both courts below have undertaken a meticulous appraisal of the evidence. The central issue was the genuineness of the alleged sale statement dated 19.02.1973. Defendant No.4 denied execution. The burden, therefore, lay squarely on the defendants. They failed to examine the Mukhtiarkar, the Tapedar or any attesting witness. The attesting witness stated that he was approximately 12 years old in 1973 and denied his signature. The applicants' reliance on a plaint filed by the witness in 2025 seeking correction of his date of birth does not dislodge the concurrent finding that he was a minor at the relevant time. The courts below were justified in preferring contemporaneous evidence over a self-serving pleading filed decades later.

11. The argument that defendant No.4's written statement was not a valid written statement is misconceived. Even if her written statement were ignored, the plaintiff's case would still be independently proved by documentary and oral evidence. Moreover, defendant No.4 appeared as a party and expressly denied execution of the impugned statement. The courts below were entitled to consider her denial.

12. The contention that the courts relied on evidence recorded in another suit is also without merit. The findings of fraud and forgery are not based on such evidence, but on the defendants' failure to prove execution, the attesting witness's age, the comparison of signatures, the non-examination of material witnesses, and the surrounding circumstances. No misreading or non-reading of any material evidence has been demonstrated.

13. The reliance on the guardianship permission of the year 1972 is misplaced. The permission merely authorized the sale of the minor's property through a lawful transaction. It does not prove that any sale actually took place in the year 1973. The courts below have found, on evidence, that no such sale was proved.

14. The argument that the courts misapplied Section 54 of the Transfer of Property Act is unfounded. The courts were not interpreting the statutory definition of sale but assessing whether the defendants had proved any genuine transaction. Their reference to offer, acceptance, consideration and possession was in the context of evaluating evidence, not statutory construction.

15. The contention that the courts wrongly held that Mst. Shamim Akhtar was not the wife of defendant No. 1, and this is also immaterial. Even if she were his wife, the defendants were still required to prove the sale. They failed to do so.

16. The argument that oral sale statements recorded by Mukhtiarkar were valid prior to 1994 does not assist the applicants. Even assuming such a practice existed, the defendants were still required to prove that defendant No. 4 genuinely made the statement, with free consent, upon payment of consideration, and before a competent officer. They failed to do so. The courts below also noted that the impugned statement purported to deal with land situated in two different Talukas and that the Mukhtiarkar Digri's competency to record a statement regarding land in Taluka Samaro was not established.

17. The plea of limitation has also been correctly addressed. In cases involving fraud, limitation runs from the date of knowledge. The plaintiff learned of the alleged fraud only in 2007. The defendants failed to prove prior knowledge. The concurrent finding that the suit was within time calls for no interference.

18. The argument that the Mukhtiarkar could not be traced due to lapse of time does not absolve the defendants of their burden. The non-production of the best evidence justifies an adverse inference.

19. No material has been shown that would justify interference with the concurrent findings. The revision seeks reappraisal of evidence, which is impermissible in revisional jurisdiction. No arguable point of law or jurisdiction arises even at the threshold.

20. For these reasons, the Civil Revision Application is **dismissed** in limine along with all pending miscellaneous applications. The concurrent judgments and decrees are maintained.

JUDGE

Faisal