

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

R.A. No.185 of 2025

Applicants: Mir Muhammad and another through Mr.Mazhar Ali Laghari, Advocate.

Respondents No.1&2: Government of Sindh and another through Mr. Allah Bahcayo Soomro, Additional Advocate General Sindh.

Respondent No.3: Ghulam Hyder through Mr. Ahsan Ali Bhurgari, Advocate.

Date of hearing: 10.08.2026.

Date of decision: 10.08.2026.

O R D E R

ZULFIQAR ALI SANGI, J: - Through the instant Civil Revision Application filed under Section 115, C.P.C., the applicants have called in question the legality, propriety and correctness of the judgment and decree dated **27.11.2025** passed by the learned District Judge, Badin, in **Civil Appeal No.103 of 2024**, whereby the appeal preferred by the present applicants against the judgment and decree dated **06.09.2024** passed by the learned Senior Civil Judge, Badin, in **F.C. Suit No.169 of 2016**, was dismissed and the judgment and decree of the learned Trial Court were maintained.

2. Briefly stated, respondent No.3/plaintiff instituted the aforesaid suit for declaration and possession in respect of agricultural land bearing **Block No.31/1 measuring 01-22 acres and Block No.36/1 measuring 03-39 acres, total 05-21 acres, situated in Deh Chhabrallo, Tapo and Taluka Tando Bago, District Badin**. His case was that the suit land had been allotted to him on *Harp* basis in 1985; that after payment of the requisite installments, T.O. Form was issued in his favour and the relevant entry was incorporated in the revenue record; and that despite his title and possession, the defendants/applicants had unlawfully occupied portions of the suit land. The applicants contested the suit through their written statement and denied having occupied the suit property. Their specific case was that their family-owned land bearing Survey Nos.404 and 405, which was distinct from the suit land. They also challenged the demarcation proceedings on the ground that the same had allegedly been conducted

in violation of the directions of the learned 1st Additional Sessions Judge, Badin, and without their presence. They further raised an objection regarding maintainability of the suit on the premise that the dispute was required to be dealt with by the competent Revenue/Settlement authorities. On the basis of the divergent pleadings, the learned Trial Court framed the requisite issues, recorded evidence of the parties and, after appraisal of the material available on record, decreed the suit vide judgment and decree dated **06.09.2024**. The learned Trial Court principally relied upon the allotment record, revenue entries, T.O. Form, land revenue receipts and the reports of the concerned Revenue authorities/demarcation proceedings. It was found that the plaintiff had established his title to the suit land and that portions thereof were in possession of the applicants and other persons. The applicants carried the matter in appeal under Section 96, C.P.C. The learned District Judge, Badin, after hearing the parties and examining the record, formulated points for determination and, vide judgment dated **27.11.2025**, found no material illegality, irregularity, misreading or non-reading of evidence in the judgment of the learned Trial Court and consequently dismissed the appeal.

3. Learned counsel for the applicants has, *inter alia*, contended that the learned courts below failed to properly appreciate the evidence; that the demarcation report was unreliable and had allegedly been prepared in violation of the order of the criminal court; that the plaintiff had failed to produce the complete chain of documents relating to his alleged title; that the suit was not maintainable in view of the availability of a remedy before the Revenue/Settlement authorities; and that the learned Appellate Court did not undertake an independent and meaningful reappraisal of the evidence. It has further been argued that the decree could not legally operate against Allah Dino, who was not impleaded as a defendant.

4. Conversely, learned counsel for respondent No.3 has supported the impugned judgments and submitted that both the courts below, after recording evidence and examining the relevant revenue record, concurrently found the respondent/plaintiff to be the lawful owner of the suit land and the applicants to be in possession of portions thereof. It is argued that the applicants' own evidence and admissions corroborate the demarcation report and that no jurisdictional defect or material irregularity warranting interference in revisional jurisdiction has been pointed out.

5. I have heard the learned counsel for the parties and have carefully examined the judgments of the learned courts below, the pleadings, the evidence and the documents available on record.

6. The scope of revisional jurisdiction under **Section 115, C.P.C.** is materially narrower than that of an appellate court. In revision, the Court is not ordinarily required to substitute its own appreciation of evidence for that of the courts below merely because another view may be possible. Interference is justified where the subordinate court has exercised a jurisdiction not vested in it by law, has failed to exercise jurisdiction so vested, or has acted in the exercise of its jurisdiction illegally or with material irregularity resulting in failure of justice.

7. In the present case, the learned Trial Court framed specific issues regarding maintainability, ownership, alleged illegal occupation and entitlement to possession. The parties were afforded full opportunity to lead evidence. The plaintiff produced, *inter alia*, the allotment order, revenue entry, land revenue receipts, reports of the Mukhtiarkar, and other relevant documents. The official witnesses also appeared before the Court and produced the relevant revenue record and demarcation material. The record further demonstrates that the plaintiff's title was not founded merely upon a bare revenue entry. The allotment order and subsequent revenue record were produced in evidence, while the concerned revenue officials supported the existence of the allotment in favour of the plaintiff. The learned Trial Court, therefore, had before it documentary as well as oral evidence upon which it could reasonably arrive at the conclusion that respondent No.3 had established his entitlement in respect of the suit land.

8. The contention that the plaintiff failed to produce certain documents, such as the original installment receipts, A-Form or irrigation/share list, does not by itself render the entire evidence incapable of consideration. The question before the revisional Court is not whether every piece of evidence was produced in the manner suggested by the applicants, but whether the conclusions reached by the courts below are based upon evidence available on record and are legally sustainable. I found that they are.

9. As regards the demarcation report, the applicants have consistently questioned the manner in which the earlier demarcation was conducted. However, the learned Trial Court subsequently

considered the demarcation report dated **07.03.2023 (Ex.78/D)**, produced through the concerned official witness. The report specifically identified portions of the suit land found in the possession of the applicants. Significantly, applicant Mir Muhammad, while appearing as DW-1, admitted that he had not challenged the said demarcation report before the competent Revenue authorities. He also admitted that the suit land had not been allotted to his predecessors and further admitted the existence of portions of the suit land in his possession as reflected in the Commissioner's report. Such admissions assume considerable significance. A party cannot, after failing to avail the appropriate statutory mechanism for challenging an official demarcation, seek to have the entire evidentiary value of the report discarded in collateral civil proceedings merely on the basis of a general allegation of collusion or procedural irregularity, particularly when the subsequent demarcation was considered and relied upon by the learned Trial Court after recording the evidence of the concerned officials.

10. The objection regarding the availability of a remedy before the Revenue authorities has also been considered. It is no doubt correct that matters falling exclusively within the jurisdiction of a special statutory forum are required to be pursued before such forum. However, the suit in question was not confined to a mere correction of revenue entries or a technical revenue dispute. The plaintiff sought ***declaration of his civil right/title and recovery of possession of immovable property***. The mere fact that revenue authorities possess powers concerning demarcation or revenue administration does not, in the circumstances of the present case, by itself establish that the jurisdiction of the Civil Court to adjudicate a claim for declaration and possession was completely ousted. The learned Trial Court specifically framed Issue No.1 regarding maintainability and answered the same in the negative against the defendants. The learned Appellate Court thereafter examined the challenge and found no material illegality in the judgment of the Trial Court. I am also unable to identify any patent error of jurisdiction in those findings which could attract interference under Section 115, C.P.C.

11. The further contention that the learned Appellate Court merely endorsed the judgment of the Trial Court also does not find support from the record. The learned District Judge heard the respective counsel, formulated points for determination, examined the evidence and documents, referred to the admissions of the applicants

and recorded reasons for maintaining the findings of the learned Trial Court. The fact that the Appellate Court ultimately agreed with the Trial Court does not, by itself, make its judgment a mechanical or rubber-stamp judgment. It is also relevant that the applicants themselves relied upon their alleged ownership of Survey Nos.404 and 405. The learned courts below found that the said land was distinct from the suit land. The applicants' own evidence established that their predecessors were allotted Survey Nos.404 and 405 and that the suit land was not allotted to them. Once the official demarcation identified portions of the suit land in their possession and their own witness made material admissions in that regard, the concurrent finding that the applicants were occupying portions of the plaintiff's land cannot be characterized as perverse.

12. The plea that the plaintiff failed to establish dispossession in the year 2013 is also not sufficient to dislodge the decree. The plaintiff produced the complaint under the Illegal Dispossession Act, the report of the Mukhtiarkar and subsequent proceedings. More importantly, the relief of possession was ultimately founded upon the established title of the plaintiff and the finding, based upon the evidence and demarcation, that portions of the suit property were in the possession of persons other than the plaintiff. I am also conscious of the submission that the demarcation report also identified **Allah Dino son of Haji Athelo and the legal heirs of deceased Yousif Athelo** as being in possession of a portion of the suit land, whereas they were not impleaded as defendants. This aspect, however, does not furnish a ground for setting aside the entire judgment and decree in favour of the applicants. The decree under challenge was passed in the suit instituted against the named defendants, and the applicants cannot take advantage of the alleged possession of third persons so as to defeat the plaintiff's otherwise established claim against them. Needless to observe, the execution of the decree shall remain confined to persons and property against whom and in respect whereof a legally executable decree has been passed, and no person who was not a party to the proceedings can be dispossessed in execution without due process of law.

13. The applicants have not been able to demonstrate that the learned courts below relied upon inadmissible evidence, ignored any material piece of evidence of such nature as would alter the result, or arrived at conclusions which no reasonable court could have reached

on the basis of the available record. The findings recorded by both courts below are findings of fact based upon appreciation of oral and documentary evidence. No jurisdictional defect or material irregularity within the contemplation of Section 115, C.P.C. has been established. It is settled that concurrent findings of fact recorded by two competent courts are not ordinarily interfered with in revisional jurisdiction unless such findings are shown to be perverse, based on misreading or non-reading of material evidence, or otherwise suffer from a jurisdictional error or material irregularity. In the present case, the applicants have essentially invited this Court to undertake a fresh reappraisal of the evidence and substitute its own conclusion for that concurrently recorded by the courts below. Such exercise is not warranted in the circumstances of the case.

14. For the foregoing reasons, I am of the considered view that the impugned judgment and decree dated **27.11.2025** passed by the learned District Judge, Badin, in Civil Appeal No.103 of 2024, as well as the judgment and decree dated **06.09.2024** passed by the learned Senior Civil Judge, Badin, in F.C. Suit No.169 of 2016, do not suffer from any illegality, material irregularity or jurisdictional defect warranting interference by this Court in exercise of revisional jurisdiction under Section 115, C.P.C. Consequently, the instant **Civil Revision Application is dismissed**. The impugned judgments and decrees of the learned courts below are maintained. There shall, however, be **no order as to costs**. The pending application(s), if any, stand disposed of accordingly.

15. Before parting with the matter, it is clarified that the decree shall be executed strictly in accordance with its terms and in accordance with law, and no person who was not a party to the suit shall be dispossessed pursuant to the decree without following due process of law.

16. These are the reason of my short order dated 10.08.2026.

JUDGE