

SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

Present:

Mr. Justice Shakeel Ahmad

Mr. Justice Ishtiaq Ibrahim

Civil Petition No. 260-P of 2022

(Against the judgment dated 09.02.2022, passed by the Peshawar High Court, D.I.Khan Bench in CR No. 32-D of 2014)

Central Government through Collector, Dera
Ismail Khan & others

...Petitioner(s)

Versus

Tariq Mansoor & others

...Respondent(s)

For the Petitioner(s) : Mr. Taimur Haider Khan, Addl.
Advocate General, Khyber
Pakhtunkhwa alongwith Sajid Ali, AC,
D.I.Khan and Muhammad Nasir, AS,
Board of Revenue.

For the Respondent(s) : Syed Haziq Ali Shah, ASC.

Date of Hearing : 28.07.2026

JUDGMENT

SHAKEEL AHMAD, J.- The facts giving rise to the instant petition are that the respondents instituted a suit for declaration, asserting that they were the lawful owners of the property, fully described in the headnote of the plaint, on the basis of RL-II No. 175, Claim No. 514, comprising 1250 units. They further sought a declaration that the petitioners were legally bound to issue the *Robkar PB* in their favour. Consequential relief in the nature of mandatory and permanent prohibitory injunction was also claimed, seeking directions to the petitioners to give effect to the respondents' allotment in the record of rights and restraining them from cancelling the allotment or transferring the suit property in favour of any third party. Upon notice, the petitioners entered appearance and contested the suit by filing written statement. Following the framing of issues and recording of evidence, the trial Court, vide judgment and decree dated 28.07.2011, dismissed the suit. Aggrieved thereby, the respondents preferred an appeal before the learned appellate Court, which, through judgment and decree dated 13.02.2014, allowed the appeal and decreed the suit, subject to fulfilment of all codal formalities. The petitioners thereafter assailed the appellate judgment by filing a Civil Revision before the Peshawar High Court, D.I. Khan Bench ("**High Court**"). The High Court, vide the impugned judgment

dated 09.02.2022, dismissed the revision petition as being not maintainable. It is against the said judgment that the petitioners have filed the instant petition for leave to appeal.

2. After hearing the learned counsel for the parties at considerable length and examining the record, we are of the considered view that the sole question requiring determination is whether a Legal Advisor/counsel, appointed pursuant to the order dated 23.08.2013 ("**the Order**") of the competent authority to "*undertake the defence of all court cases relating to the Revenue & Estate Department*", is competent to institute a revision petition against the judgment of an appellate Court, in the absence of any express restriction in the Order or the governing law limiting the scope of such authority.

3. Before dilating upon the merits of the case, we deem it appropriate to reproduce the order, as under: -

"ORDER

No. SO (Lit) /LD/1-4 (Legal Advisor) /2013: *In continuation of this Department notification No. E&A(LD)8-73/02 dated 23.12.2004, the services of Mr. Sajid Nawaz Khan Advocate, Legal Advisor/ State Counsel is hereby cancelled with immediate effect and Amjad Ali Shah Advocate is appointed as legal advisor for a period of one year with effect from charge assumption to undertake defence of all court cases related to Revenue & Estate Department.*

*Secretary to Government of Khyber Pakhtunkhwa,
Law, Parliamentary Affairs and
Human Rights Department"*

The expression "*to undertake defence of all court cases related to the Revenue & Estate Department*" is of wide amplitude and ought to receive a liberal and purposive construction. The word "*defence*" cannot reasonably be confined to filing a written statement, leading evidence, or contesting a suit before the trial Court. Rather, it encompasses every procedural step ordinarily necessary to protect and advance the client's interests throughout the course of the litigation, including appellate and revisional proceedings, unless the order of appointment or the governing law expressly provides otherwise. Had the Order confined the authority to defending suits before the trial Court alone, a restrictive interpretation might have been tenable. However, no such limitation is found in the present case. On the contrary, the authority conferred is to undertake the

defence of all Court cases relating to the Revenue & Estate Department, which would ordinarily include appeals, revisions, interlocutory applications, execution and implementation proceedings, and all other ancillary proceedings arising out of the same litigation and necessary for the protection of the client's legal rights.

4. The foregoing interpretation is further reinforced by the settled distinction between the existence of authority to conduct litigation and the particular procedural forum in which such authority is exercised. A revision under Section 115 of the Code of Civil Procedure, 1908, does not constitute an independent or fresh cause of action. It is a continuation of the same litigation, invoked to correct jurisdictional errors or material irregularities committed by a subordinate Court. In that sense, revisional proceedings remain integrally connected with the original *lis*. Consequently, an authority conferred to defend a Court case ordinarily extends to the institution and prosecution of a revision arising out of that very litigation, unless such authority is expressly curtailed.

5. It is equally well settled that procedural objections relating to the authority of a person instituting or prosecuting proceedings should not ordinarily be permitted to defeat substantive rights without first affording the concerned party a reasonable opportunity to establish the requisite authorization. In *S.D.O/A.M, Hashtnagri Sub Division, PESCO, Peshawar vs. Khawazan Zad*¹, this Court held that where an officer possessed general authority to institute and defend legal proceedings and to appoint counsel, the High Court ought not to have dismissed the revision petition on a technical objection regarding authorization without first allowing the party an opportunity to produce the relevant resolution. The principle laid down therein applies with greater force where, as in the present case, the controversy relates not to the complete absence of authority but merely to the alleged scope of an otherwise valid authorization.

6. The matter may also be examined in the light of Order III Rule 4 of the Code of Civil Procedure, 1908. An Advocate duly engaged by a party is ordinarily authorized to appear, act, plead and conduct proceedings on behalf of the client. While the precise extent

¹ PLD 2023 Supreme Court 174

of such authority may, in a given case, be regulated by the terms of the instrument of appointment or the applicable rules of the Court, the determinative question is not whether the order expressly authorizes the filing of a revision petition. Rather, the inquiry is whether, upon a fair and holistic reading of the order, it confers a general authority to conduct and defend litigation. In the present case, the order authorizes the Legal Advisor "*to undertake defence of all court cases related to the Revenue & Estate Department*" without restricting such authority to any particular stage of the proceedings or to any specific forum. It thus confers a broad mandate to represent and protect the interests of the Department throughout the course of the litigation. In these circumstances, the mere absence of the specific words "to file a revision petition" cannot, by itself, be construed as limiting or negating the authority to institute revisional proceedings arising out of the same litigation.

7. Learned counsel for the respondents contended that a revision petition constitutes an independent proceeding and, therefore, the Legal Advisor lacked authority to institute the same, as the order of appointment merely authorized him to undertake the defence of the suit. Although this submission may derive some textual support from an unduly restrictive reading of the order, it is doctrinally unsustainable. Where a revision petition arises directly out of the same litigation, the party invoking the revisional jurisdiction does not initiate a fresh or independent cause of action; rather, it seeks correction of the legality, jurisdictional error or material irregularity in the judgment rendered in that very litigation. The circumstance that a revision is instituted through a separate petition does not alter its essential character. The Legal Advisor, who represented the petitioners throughout the proceedings, continues to defend their rights in the same dispute by invoking the revisional jurisdiction of the High Court. The well-settled principle that appellate proceedings are a continuation of the original proceedings lends equal support, with appropriate qualification, to revisional proceedings arising from the same litigation. That said, the proposition is not without exception. Separate or specific authorization may be necessary where: (i) the instrument of appointment expressly confines the authority to conducting proceedings before the trial Court; (ii) the authorization is limited to

appearing and conducting only pending proceedings, without empowering the institution of further proceedings; (iii) the governing statute or applicable rules expressly require prior approval or a resolution of the competent authority before instituting proceedings; or (iv) the person issuing the authorization himself lacked the legal competence to empower the institution or defence of litigation. None of these contingencies has been pleaded or established in the present case. The authorities referred to above further reinforce the principle that where there exists *prima facie* evidence of a general authority to institute or defend litigation, any objection concerning the precise scope or proof of such authority is ordinarily curable. The Court should, therefore, afford the party concerned an opportunity to establish or ratify the authorization, rather than non-suited it on a purely technical objection. Consequently, the mere absence of an express reference in the order to the filing of a "revision petition" cannot, by itself, invalidate the institution of the revisional proceedings.

8. The question that falls for determination is whether the authority conferred upon the Legal Advisor to conduct the original proceedings extended to the institution of revisional proceedings. The answer depends primarily upon the terms of the instrument of appointment, read in light of the intention manifested by the appointing authority. The proper approach is to construe the order as a whole, purposively rather than mechanically, without insisting that every conceivable procedural remedy such as an appeal, revision, review, constitutional petition or execution application be separately enumerated. In the present case, the Legal Advisor was appointed by the competent authority to "*undertake defence of all court cases related to the Revenue & Estate Department.*" Such authorization is couched in broad and unqualified terms and is not confined to any particular Court, stage of the proceedings, or class of remedy. Ordinarily, therefore, it extends to the institution and prosecution of a revision petition before the High Court challenging the appellate judgment rendered in the same litigation, unless the order itself or the governing law expressly provides otherwise. To hold that the filing of a revision petition falls outside the scope of such authority merely because a revision is procedurally distinct from the suit would be to adopt an unduly narrow and technical construction of the order.

Litigation is a continuous process, and the authority to defend a case ordinarily encompasses the taking of all appropriate legal steps necessary to protect the client's interests against adverse orders passed during its course. Consequently, where a broadly worded authorization empowers the Legal Advisor to defend all court cases, the absence of an express reference to the filing of a revision petition cannot, by itself, furnish a valid ground for rejecting the revisional proceedings.

9. For the foregoing reasons, we are of the considered view that the High Court fell into error in adopting an unduly narrow construction of the order whereby the Legal Advisor was appointed to undertake the defence of all Court cases relating to the Revenue & Estate Department. The impugned judgment, therefore, cannot be sustained and warrants interference by this Court. Consequently, this petition is converted into an appeal and is allowed. The judgment dated 09.02.2022 passed by the High Court is set aside, and the matter is remanded to the High Court for a decision afresh on merits, after affording the parties a full opportunity of hearing. Having regard to the fact that the litigation is of considerable vintage, the High Court is directed to dispose of the revision petition as expeditiously as possible, preferably within two months from the date of receipt of a copy of this judgment, excluding the period of summer vacation. Needless to mention that the revision petition filed by the petitioners shall be deemed to be pending before the High Court and shall be decided in accordance with law. No order as to costs.

Peshawar /
28th July, 2026
Zia/ *

"Approved for reporting"