

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Justice Yahya Afridi, HCJ
Justice Irfan Saadat Khan
Justice Aqeel Ahmed Abbasi

Civil Petition No. 155-Q/2022

(Against the judgment dated 21.09.2022 passed by the High Court of Balochistan, Quetta in Civil Revision No.313/2021)

Abdul Latif and others

...Petitioner(s)

VERSUS

Abdul Jabbar and another

...Respondent(s)

For the Petitioner(s): Mir Waiz Khan Tareen, ASC
(Via V.L. Quetta)

For the Respondent(s): Mr. Aman Ullah Khan, ASC
(Via V.L. Quetta)

Date of Hearing: 15.07.2026

JUDGMENT

AQEEL AHMED ABBASI, J.- Instant civil petition for leave to appeal has been filed under Article 185(3) of the Constitution of the Islamic Republic of Pakistan, 1973 against the judgment dated 21.09.2022 passed by the learned Single Judge of the High Court of Balochistan, Quetta in Civil Revision No.313 of 2021, whereby, the Civil Revision filed by the petitioner against judgment of two Courts below was dismissed, hence, instant civil petition for leave to appeal.

2. Brief facts of the case are that the Respondent No.1 namely Abdul Jabbar filed a suit for declaration and permanent injunction in the court of Civil Judge/ Judicial Magistrate-IV, Pishin against the petitioners with the averments that the property situated in Mahal and Mauza Ismailzai, Tappa Manzaki, Tehsil and District Pishin bearing Khewat Khatooni No. 133/135, Khasra No. 264, Total measuring 35 rode, 30 pole, out of which the Respondent No.1 is the owner of and in peaceful possession of the property to the extent of his share 1/16, measuring 2 rode, 9 pole vide Mutation No.448, reference Mutation No.374 (hereinafter referred to as the **“subject property”**). Respondent No.1 alleged that

defendants without any lawful authority, started to illegally interfere with his property/land by constructing a boundary wall to encroach upon his share of the property and threatening him with dire consequences, subsequently, despite intervention by local area notables and an application submitted to the Deputy Commissioner, Pishin, the defendants continued their interference compelling the Respondent No.1 to institute the civil suit. The petitioners contested the suit on both factual and legal grounds. Keeping in view the pleadings of both parties, the Trial Court framed four primary issues: First, whether the suit was maintainable under Section 42 of the Specific Relief Act; second, whether Mutation No. 448 was fraudulent or fake due to non-fulfillment of the essential ingredients of *Hiba* (gift); third, whether the plaintiff was the absolute owner in peaceful possession of the claimed 1/16 share measuring 2 rode, 9 pole; and fourth, whether the petitioners were illegally and unlawfully interfering in the property of the Respondent No.1 by means of construction of a wall. The Trial Court decreed the suit in favor of Respondent No.1 vide judgment and decree dated 29.09.2020. Feeling aggrieved with the Trial Court's judgment and decree the petitioners preferred an appeal before the Appellate Court which dismissed the appeal of the petitioners vide judgment and decree dated 27.05.2021. Being aggrieved and dissatisfied with the decision of the Appellate Court, the petitioners filed a Civil Revision Petition before the High Court of Balochistan, Quetta where the Single Judge dismissed the petition for having no substance vide impugned judgment dated 21.09.2022. Hence, instant petition.

3. Learned Counsel for the petitioners has contended that the impugned judgments and decrees passed by the courts below are contrary to law and record, hence liable to be set aside. He contends that the civil suit filed by Respondent No.1 for mere declaration without seeking consequential relief of possession is not maintainable, as Respondent No. 1 is out of possession, whereas, the subject land and dwelling house constructed thereon have remained in the exclusive possession of the petitioners through their forefather, Syed Abdul Hakeem Shah. He further contends that this fact has been implicitly admitted during cross-examination by the Respondent No.1's own witness (PW-1). Learned Counsel for the petitioners has argued that the Respondent No.1 failed to prove a valid gift (*Hiba*) in respect of Mutation No.448 and the prerequisites for a valid gift; offer, acceptance and transfer of possession. He argues that the gift was never established through independent evidence as

corroborated by the testimony of halqa patwari (PW-3) and in declaring Respondent No.1 as the owner based merely on disputed mutations, the courts below have disregarded the settled principle of law that revenue entries neither create nor extinguish title. Learned counsel has contended that the courts below erred by deeming the petitioners as encroachers, and completely overlooked the Mutation No. 51 (Ex-P/2) which affirms the petitioners' lawful ownership and long-standing possession of subject property. He further contends that the Appellate Court and the High Court passed non-speaking judgments by merely endorsing the Trial Court's findings, without framing points for determination or giving independent reasoning, which amounts to a clear violation of Order 41 Rules 30 and 31 of the Code of Civil Procedure (CPC). Lastly, it has been prayed by the learned counsel that leave may be granted against the judgment dated 21.09.2022, passed by the High Court of Balochistan and impugned judgment(s) may be set-aside.

4. Conversely, Learned Counsel for the Respondent No.1 has vehemently opposed the contention of the learned counsel for the petitioners while supporting the judgments and decree of the Courts below by contending that the petitioners have miserably failed to rebut the documentary evidence produced by the Respondent No.1. The learned counsel further contended that the title of the subject property stands established in the name of Respondent No.1, pursuant to Mutation No.448 dated 30.10.1998, and since then, the Respondent No.1 is the owner and in continued possession of the subject property, which fact was never disputed by the petitioners inspite of knowledge, as they neither challenged the gift in favour of the Respondent No.1 by his Father-in-law namely Akhtar Muhammad, nor sought cancellation of Mutation No.448 dated 30.10.1998. Per learned counsel, since the petitioners attempted to encroach upon the subject property of the Respondent No.1 by constructing a wall, therefore, the respondent was compelled to file a suit seeking declaration and permanent injunction against the petitioners from taking illegal possession of the subject property. According to Learned Counsel, since the petitioner did not file a suit seeking cancellation of gift and the Mutation entry in the name of Respondent No.1 since 1998, therefore, merely disputing the same by filing a written statement, in the absence of any evidence of this effect, is not sufficient to seek cancellation of lawful revenue record without establishing fraud or forgery in such **record**. Learned Counsel while concluding his arguments has submitted

that Courts below have rightly appreciated the evidence produced by the parties, in accordance with law, and have passed well-reasoned judgments and decrees warranting no interference by the Court.

5. Heard the learned counsel for the parties, perused the record with their assistance, and the impugned judgment passed by the High Court of Balochistan, Quetta.

6. Perusal of the record shows that Respondent No.1 in order to show that subject property was gifted to him by this Father-in-law namely Akhtar Muhammad, in the year 1998 whereafter, the title was transferred in his favour as reflected in revenue record as per Mutation No.448, dated 30.10.1998, produced oral as well as documentary evidence as discussed in the judgment and decree passed by the learned Trial Court, which has been duly approved by the Appellate and the Revisional Court through impugned judgment by holding that the Respondent No.1 is lawful owner and in possession throughout of the subject property. It is surprising to note that in a suit filed by the Respondent No.1 seeking declaration and permanent injunction to the effect: (i) To declare that plaintiff is owner and in peaceful possession of property to the extent of his share 1/16, measuring 2 rode, 9 pole, vide Mutation No.448, reference Mutation No.374 Mankazi, Tehsil and District Pishin. (ii) To declare that the defendants have no concern of whatsoever are illegally and unlawfully interfering in the property of the plaintiff by means of construction of wall. (iii) By means of permanent injunction the defendants be restrained from interference in the property in question, the petitioner for the first time objected to the title of Respondent No.1 over subject property by alleging that the Mutation No.448 dated 30.10.1998, reference Mutation No.374 is fake and there was no valid gift (*Hiba*) by the previous owner namely Akhtar Muhammad in favour of Respondent No.1. It is pertinent to note that neither the petitioner nor the legal heirs of Akhtar Muhammad i.e. two sons and three daughters, challenged the gift (*Hiba*) and Mutation No.448 dated 30.10.1998 in favour of Respondent No.1 at any point of time either before the Revenue Authorities or before any Court of law, therefore, the presumption of truth attached to the Public Record could not be suspected, particularly when petitioner failed to establish through cogent and convincing evidence to the contrary in terms of Section 52 of the West Pakistan Land Revenue Act, 1967. Moreover, the Respondent No.1 while examining himself as well as through two witnesses namely Syed Jalal Uddin (PW-1) and Syed Abdul Ghaffar (PW-2) *prima facie*

established the continued uninterrupted possession of subject property to the extent of his share 1/16, measuring 2 rode, 9 pole, vide Mutation No.448, reference Mutation No.374 situated in Mohal and Mouza Ismailzai, Tappa Manzaki, Tehsil and District Pishin. Furthermore, Muhammad Nadir, Patwari (PW-3) produced the revenue record i.e. Mutation No.374 (Exh.P/3) which shows Akhtar Muhammad son of Kotan (Father-in-law of Respondent No.1) as owner of the subject property. He further produced Mutation No.448, reference Mutation No.374 (Exh. P/3-A), which shows Respondent No.1 as owner of the subject property. The testimony of all the three witnesses could not be shaken by the petitioner before three Courts below who have recorded concurrent findings of fact and law to this effect. It appears that the petitioners, in order to justify their attempt to encroach upon the subject property, attempted to raise a false plea relating to entry in the revenue record as well as the gift (*Hiba*) in favour of the Respondent No.1, without specifically alleging the fraud or forgery in the execution or registration of gift (*Hiba*) deed. Mere allegation against a gift (*Hiba*) or entry in the revenue record, without approaching the Revenue Authorities or before the proper Court of jurisdiction, by challenging the title or seeking its cancellation, particularly in the absence of any cogent material or evidence to this effect, cannot be given heed in a suit of declaration and permanent injunction seeking restraining order against alleged encroachment by such party, who otherwise, could not establish through evidence any right, title or even possession over such property in the instant case.

7. It is a well-established principle of law that official revenue entries and mutations recorded by public officers in the discharge of their official duties in periodic record of rights such as *jamabandis* and *Khasra Girdwari* carry a statutory presumption of truth unless disproved by cogent and convincing evidence under Section 52 of the West Pakistan Land Revenue Act, 1967. We have observed that Mutation No.374 and subsequent Mutation No.448 duly incorporated in the revenue record on 30.10.1998 were never disputed or challenged, hence it constitutes as a valid official record. The petitioners, having failed to produce any material or evidence to rebut or disprove the validity of these longstanding revenue entries, cannot displace the statutory presumption attached to them. Reliance in this regard can be placed on *Mst. Jehan Bano & others v. Mehraban Shah & others* (2024 SCMR 1096), *Mazloom Hussain v. Abid Hussain and Others* (PLD 2008 SC 571) *Abdul Ahad v. Roshan Din* (PLD

1979 SC 890), *Hakim Khan v. Aurangzeb* (1979 SCMR 625), *Aurangzeb v. Muhammad Jaffar* (2007 SCMR 236), and *Muhammad Amir v. Mst. Beevi* (2007 SCMR 614).

8. In view of hereinabove facts and circumstances of this case, we do not find any factual error or legal infirmity in the impugned judgment passed by learned Single judge in Civil Revision No.313 of 2021, therefore, we are not inclined to interfere with concurrent findings as recorded by all the Courts. Accordingly, instant petition, being devoid of any merits, is hereby dismissed and leave is refused.

Chief Justice

Judge

Judge

ISLAMABAD
15.07.2026
Tanveer Ahmed
"Approved for Reporting"