

**JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
BANNU BENCH
(Judicial Department)**

CR No.46-B/2021

Abdul Jabbar Khan, etc.

Vs

Muhammad Gul, etc.

JUDGMENT

Date of hearing: **20.10.2025**

For petitioner(s): **M/s Muhammad Shah Nawaz Khan
Sikandri, Khan Zada Khan, and
Malik Muhammad Hamayun,
Advocates**

For respondent(s): **Mr. Umer Daraz Khattak Advocate**

MUHAMMAD TARIQ AFRIDI, J.- Through this revision petition, the petitioners have assailed the legality and validity of the judgment and decree dated 23.11.2020, passed by the learned Additional District Judge-II, Karak, whereby the petitioners' appeal was dismissed, and the judgment and decree of the learned Senior Civil Judge, Karak, dated 18.02.2000, was upheld. Through the said judgment, the suit filed by plaintiffs/respondents No.1 to 3 was decreed against the petitioners/defendants.

2. The brief facts leading to the filing of the present revision petition are that the plaintiffs/respondents No.1 to 3, namely Muhammad Gul and two others (hereinafter

referred to as “the respondents”), instituted a suit against the defendants, Lal Zaman and others (hereinafter referred to as “the petitioners”), seeking a declaration along with perpetual, prohibitory, and mandatory injunctions in respect of the suit property. The respondents asserted that their predecessor-in-interest, Sher Azam alias Telephone, as reflected in the Jamabandi for the year 1965-66, was the owner in possession of property measuring 6-Kanal and 8-Marla (1/3rd share) out of a total area of 19-Kanal and 3-Marla, comprising Khata Nos. 741 and 742, Khasra Nos. 2329, 2330, and 2341, situated in Mauza Land Kamar, District Karak. It was further contended that, in the subsequent settlement, the earlier Khata and Khasra numbers were renumbered in the Jamabandi for the year 1974-75, as Khata No.328, comprising Khasra No. 5727 measuring 8-Kanal and 15-Marla, and Khata No.329, comprising Khasra Nos. 5725, 5726, 5773, and 5786 measuring 10-Kanal and 15-Marla, situated in Mauza Warana Ahmad Abad, District Karak. It is pertinent to mention here that, in the Jamabandi for the year 2011-12, the earlier Khata Nos. 328 and 329 were renumbered as Khata Nos. 364 and 365, respectively. The respondents further contended that they had transferred one-third share each in Khata Nos. 328 and 329 to Lal Zaman (defendant No.1/respondent No.4).

However, Lal Zaman, without any lawful authority, illegally transferred one-half share in Khata No. 329, comprising Khasra Nos. 5725, 5726, 5773, and 5786, in favour of the petitioners (Abdul Jabbar and others) through Mutation No. 507 dated 30.07.1978 (Ex.PW2/3). Consequently, the said mutation and the resultant revenue entries are erroneous and liable to be set aside and corrected in accordance with law.

3. The petitioners were summoned; they appeared and contested the suit by submitting the written statement. The divergent pleadings of the parties culminated in the framing of various issues. After recording evidence and hearing the arguments of learned counsel for the parties, the suit of the respondents was decreed vide judgment and decree dated 18.02.2020. Then petitioners challenged this decision through Appeal No. 39/13 of 2020, which was subsequently dismissed by the Additional District Judge-II, Karak, vide judgment and decree dated 23.11.2020. This led to the filing of the present revision petition.

4. Arguments heard and carefully perused the case record with the valuable assistance of learned counsel for the parties.

5. It is evident from the record that the respondents'

predecessor-in-interest, Sher Azam alias Telephone, had purchased, through Mutation No. 33486 attested on 14.09.1962 (Ex. PW2/6), property measuring 6-Kanal and 8-Marla, representing one-third share out of the total area measuring 19-Kanal and 3-Marlas, comprising Khata Nos. 741 and 742, Khasra Nos. 2329, 2330, and 2341, situated in Mauza Land Kamar, District Karak. The record reflects that Sher Azam, also known as "Telephone," sold the said one-third share to Lal Zaman (defendant No.1 / respondent No.4), through a sale Mutation No. 36429, attested on 13.12.1968. In this mutation, the original Khata numbers 741 and 742 listed in column 2 were changed to new Khata numbers 328 and 329 in column 8. In other words, the respondents' predecessor, Sher Azam, had purchased a property measuring 6-Kanals and 8-Marla in the disputed Khata and Khasra numbers in 1962. However, he sold the said property in 1968 and thereafter ceased to own even an inch of it.

6. The available record further demonstrates that the Khata and Khasra numbers, along with the corresponding area, recorded in the Jamabandi for the year 1965-66, were subsequently altered in the Jamabandi for the years, 1974-75, and 2011-12. The details are provided below for clarity and better understanding:

Record	Khata #	Khasra #	Area and Nature	Total Area
Jamabandi 1965-66	741 consists of one Khasra Number	2329	9-K, 0-M Barani	9-K, 0-M
	742 consists of two Khasra Numbers	2330	2-K, 15-M Barani	10-K, 3-M
		2341	7-K, 8-M Barani	
			Grand Total	19-K, 3-M
Jamabandi 1974-75	New Khata 328/741	Old Khasra No. 2329 New Khasra No. 5727	8-K, 15-M	8-K, 15-M 5-M decreased
	New Khata 329/742	Old Khasra No. 2330has been divided into 03 new Khasra Numbers	1. 2725 - 9-M – Bajar Qadeem	3-K, 7-M
			2. 6773 -18-M Thoroughfare	
			3. 5726 -2-K, 3-M –Barani	
		Old Khasra 2341 has been changed to a new Khasra	New Khasra No. 5786	7-K, 8-M
			Total area of	10-K, 15-M The area stands increased 12-M
Jamabandi 2011-12	Khasra No. 364/328 and 365/329	-Do-	-Do-	-Do-

7. The record shows that in the Jamabandi for the

year 1965-66 (Ex.PW-2/7), the disputed property was recorded under two Khata numbers, 741 and 742, and comprised three Khasra numbers i.e. 2329, 2330, and 2341, covering a total area of 19-Kanal and 3-Marla. However, in the subsequent Jamabandi for the year 1974-75, (Ex.PW-2/8), both Khata numbers were renumbered as 328 and 329. During this revision, Khata No. 741, which previously included Khasra No. 2329 measuring 9-Kanals, was renumbered as new Khata No. 328, and the said Khasra was correspondingly assigned a new number, Khasra No. 5727, measuring 8-Kanal and 15-Marla. As a result of this change, a decrease of 5-Marla in area occurred. Likewise, Khasra No. 2330, which earlier measured 2-Kanal and 15-Marla, was subdivided into three new Khasra numbers, 5725, measuring 9-Marlas and classified as Banjar Qadeem, 5773, measuring 18-Marla and classified as Ghair Mumkin Rasta (thoroughfare), and 5726, measuring 2-Kanal and classified as Barani (rain-fed agricultural land). The total area of these newly created Khasra numbers amounted to 3-Kanal and 7-Marla, showing an increase of 12-Marla from the earlier record, however, there is no evidence to suggest that the aforesaid increase or decrease pertains to the property of the respondents' predecessor, Sher Azam alias Telephone, who, during his lifetime, had sold his

property measuring 6-Kanal, 8-Marla, to the defendant/respondent No. 4, Lal Zaman.

8. The respondents asserted that their predecessor-in-interest, Sher Azam, had alienated one-third share each in Khata Nos. 328 and 329 in favour of Lal Zaman (defendant No.1/respondent No.4). It was further alleged that Lal Zaman, acting without lawful authority, subsequently transferred one-half share in Khata No. 329, comprising Khasra Nos. 5725, 5726, 5773, and 5786, to the petitioners, namely Abdul Jabbar and others, through Mutation No. 507 dated 30.07.1978. However, this contention is devoid of merit. The record clearly shows that the fluctuations in the area and entries pertaining to the disputed Khata and Khasra numbers occurred during a period when Sher Azam alias "Telephone" neither held ownership nor was in possession of any portion of the disputed property. Moreover, mutation No. 507 dated 30.07.1978 (Ex.PW2/3), pertains to a sale transaction between Lal Zaman (incorrectly recorded as Lal Zameer) and the petitioners. If any error or incorrect entry exists in this mutation, such a mistake cannot be interpreted or extended to the benefit of the respondents or any third party.

9. Legally speaking, erroneous entries in the revenue record arising out of settlement proceedings can be

rectified only if the entire affected property, along with both the existing and previous landowners, is included in a suit instituted within the prescribed period of limitation, which is not the case in the present matter.

10. The pivotal issue of limitation has been erroneously decided by both the Courts below in a slipshod and cursory manner. It is settled law that in cases involving mere correction of entries in the revenue record, each new adverse entry in the record of rights (Jamabandi) gives rise to a fresh cause of action only for a person who is in possession of the land to which such entry relates. However, the record clearly reveals that the respondents' predecessor-in-interest was neither the owner nor in possession of the suit property. Despite this, the respondents have sought to challenge the disputed entries in the revenue record pertaining to the years 1974 and 1978, through the present suit instituted on 13.11.2014, which is hopelessly time-barred and, therefore, the concurrent findings of both courts below, holding that a recurring cause of action existed, are erroneous, misconceived, and not sustainable in law. The impugned judgments are liable to be set aside on this ground alone. Reliance is placed on the judgments reported as **"Principal Public School, Sangota, Government of Khyber Pakhtunkhwa through Chief**

Secretary and others Vs Sarbiland and others”, (2022 SCMR 189) and “Khan Muhammad and others Vs Mst. Khatoon Bibi and others”, (2017 SCMR 1476).

11. Admittedly, the alleged incorrect entries in the revenue record were never questioned or challenged by the respondents’ predecessor-in-interest, Sher Azam alias Telephone, during his lifetime. Neither the plaint nor the evidence adduced reflects any plausible reason for such omission. In the absence of any explanation as to why Sher Azam failed to contest the alleged erroneous entries during his lifetime, the respondents, being his successors-in-interest, had no *locus standi* to assail the same through the present proceedings. The settled law is that where a predecessor has acquiesced in or failed to challenge the revenue entries during his lifetime, his successors cannot subsequently reopen the matter without demonstrating fraud, misrepresentation, or other sufficient cause. Reliance is placed on the judgments reported as “**Mst. Faheeman Begum and others Vs Islam-ud-Din and others”, (2023 SCMR 1402), “Gulam Abbas and others Vs Muhammad Shafi & others”, (2016 SCMR 1403), “Noor Din and another Vs Additional District Judge, Lahore”, (2014 SCMR 513), and “Muhammad Rustam and another Vs Mst. Makhan Jan and others”, (2013 SCMR 299).**

12. For the foregoing reasons, the revision petition is allowed. The concurrent findings of the Trial Court and the Appellate Court are hereby set aside. Consequently, the suit filed by the respondents stands dismissed. There shall be no order as to costs.

Announced
20.10.2025
(Ghafoor Zaman)

SCANNED

29 OCT 2025

Khaliq Khan

28/10/2025