

JUDGMENT SHEET
IN THE HIGH COURT OF BALOCHISTAN, QUETTA

Constitution Petition No.44 of 2025
(CC# 100107800125)

Naimat Ullah Khan & others

Vs.

The Commissioner, Quetta and others

Date of hearing: 01.12.2025 Announced on: 08-12-2025

Petitioners by: Barrister Jahandad Kakar, Advocate.

Official respondents

1 to 3 by: Ms. Salma Abdul Fattah, Assistant Advocate General.
Respondent No.4 proceeded against ex-parte on 02.09.2025.

JUDGMENT

Sardar Ahmad Haleemi, J. The petitioners have invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 ("**the Constitution**") with the following relief:

"It is therefore accordingly prayed that this Hon'ble Court may kindly cancel/set-aside the order (impugned) dated 23.05.2024, in the interest of justice, fairplay and equity."

2. As per contents of the instant petition, petitioner No.4 entered into a Sale Agreement dated 25.03.2009 with respondent No.4 regarding land measuring 16 Rods 0 Pole, bearing Khasra Nos. 290, 289, 287/293, 292, 288/294, Mutation No.31, situated in Mouza Kareez Laile, Tappa Baliali, Tehsil Saddar, District Quetta. Although

the land was agreed to be sold for a specified consideration, respondent No. 4 failed to fulfil the terms of the Agreement. Consequently, with mutual consent, the matter was referred to arbitration, and the arbitrator, after hearing both sides, passed an award holding respondent No.4 liable to pay Rs. 48,000,000/- to petitioner No.4. Despite the execution of mutation in favour of respondent No.4, the due amount was never paid. Due to non-payment, petitioner No. 4 approached respondent No. 2, who cancelled Mutation No. 107 on 08.09.2016. Subsequently, respondent No.2 issued multiple inconsistent orders: on 16.03.2017, the Tehsildar was directed to cancel Mutation No. 97; later, respondent No. 2 withdrew the earlier directions and restored Mutation No. 107 vide order dated 08.06.2017.

Petitioner No. 4, feeling disgruntled, filed an appeal before the Commissioner, Quetta, who, on 27.10.2017, ordered the demarcation of 2 Rod 14 $\frac{2}{3}$ Pole, directed respondent No. 3 to purchase the remaining land from the petitioner, and directed payment of government dues and the actual land price. However, this order remained unimplemented for nearly two years. Eventually, on 08.02.2019, respondent No.2 once again cancelled Mutation No.107 and restored Mutation No.31, a position later reinforced by orders of respondent No.1 dated 26.07.2019 and 27.08.2020, both directing cancellation of Mutation No.107. To resolve the matter conclusively, the Divisional Commissioner constituted a committee by notification dated 16.05.2023, which, after inquiry, declared Mutation No. 107

illegal in its findings dated 18.07.2023. Following this, on 03.05.2024, a valid registered deed was executed, and land measuring 22,000 sq. ft. under Mutation No. 31 was lawfully transferred to the petitioners. However, the Collector (respondent No.2), despite the registry, the committee's findings, earlier orders, and without notice to the petitioners, restored mutation Nos. 107, 202, 203, and 204 vide order dated 23.05.2024 ("**impugned order**")

3. On 14.10.2025, learned AAG filed a reply on behalf of respondent Nos.1 to 3, which was taken on record. The official respondents took the stance that the then Deputy Commissioner, vide judicial order dated 23.05.2024, restored Mutation Nos. 107, 202, 203 and 204, and that, consequently, the gift deed No., registered along with Mutation No. 288, stood cancelled. It was further stated that the replying respondents have no concern with the controversy between the private parties, which relates to the alleged non-payment of sale consideration and is exclusively within the domain of the Civil Court; that the revenue hierarchy has no authority to adjudicate such disputes. According to them, mutation Nos.107, 202, 203 and 204 had been correctly restored.

4. Learned counsel for the petitioners inter alia contended that the Deputy Commissioner/Collector had no jurisdiction whatsoever to cancel a registered gift deed, which is an act exclusively falling within the jurisdiction of the Civil Court; that the Collector, while passing the impugned order, did not issue notice to the petitioners, nor provided them an opportunity of hearing, which

constitutes a blatant violation of the principle of audi alteram partem and Article 10-A of the Constitution; that the impugned order deprives the petitioners of their property rights, protection of law, and fair treatment, thereby violating Articles 4, 10-A, 23, and 24 of the Constitution; that the impugned order reflects misuse of authority, arbitrariness, and exercise of power in excess of jurisdiction; that the Collector does not possess any vested right under the Land Revenue Act, 1967 to cancel a registered Gift Deed or to adjudicate upon questions of title; that since the petitioners' registry and subsequent mutation entries exist under Mutation No.31, their vested rights cannot be defeated by an unlawful administrative order; that the order dated 23.05.2024 is illegal, without lawful authority, based on no evidence, and liable to be set aside

5. Conversely, learned Assistant Advocate General representing the official respondents argued that the dispute between the petitioners and private Respondent No.4 relates to alleged non-payment of sale consideration and arbitration proceedings, which are purely civil in nature and have no nexus with the answering Respondents; that as per the revenue record, Mutation No.31 dated 14-09-1997 originally stood in the name of Sardar Mehmood Madani and was thereafter transferred through subsequent transactions; the Collector passed the impugned order strictly in accordance with law, and the Collector, acting in compliance with the Commissioner's order, recovered the requisite dues and attested Mutations No. 202, 203, and 204 on 13-03-2020 for the purpose of entering correct

revenue entries; that though the Deputy Commissioner subsequently cancelled Mutations No.107, 202, 203, 204 and reinstated Mutation No.31 on 03-05-2024, the same was later rectified through a judicial order dated 23-05-2024, whereby Mutations No.107, 202, 203, and 204 were restored, and Gift Deed No.125 along with Mutation No.288 were cancelled; that any grievance regarding outstanding consideration or alleged fraud must be agitated before a competent Civil Court, as mutation attestation concerns only fiscal purposes and not title adjudication; that the answering Respondents have acted transparently, in good faith, and in strict consonance with statutory provisions governing land revenue; that no violation of fundamental rights is made out from the pleadings, and the petition raises disputed questions of fact which cannot be adjudicated in writ jurisdiction. The controversy between the parties lies squarely within the domain of civil litigation, and no case for interference by this Court is made out; the instant petition be dismissed, and any lawful order passed by this Court shall be complied with in letter and spirit by the answering Respondents.

6. We have heard the learned counsel for the parties and scanned the record.

7. As per record, the controversy between the parties is non-payment of the sale consideration and alleged violation of the terms of the agreement to sell dated 30.03.2009. A Perusal of the record reveals that Sardar Muhammad, son of Muhammad Ghani, executed a gift deed in favour of Najeebullah, Abdullah,

Naqeebullah, Naseebullah, Naimatulah and Muhammad Sadiq, sons of Sardar Muhammad, which was duly registered, and subsequent mutation entries were carried out. Thereafter, respondent No.4 filed an application before the Collector seeking cancellation of the said entries, which was allowed vide impugned order and Mutation Nos. 107, 202, 203, and 204 in Mahal Kareza Laile, Mouza Karezat Tappa Balaili, Tehsil Saddar, District Quetta (disputed land) were restored. Record manifests that the Collector had passed the impugned order dated 23.05.2024, cancelled the registered gift deed, and made subsequent revenue entries without issuing notice to the petitioners; thus, the principle of audi alteram partem squarely applies to the instant case, as it is a clear violation of Article 10-A of the Constitution, and the petitioners were unquestionably condemned unheard. In this context, it is relevant to mention here that under the provisions of the Registration Act, 1908 (**the Act, 1908**), the revenue hierarchy lacks the power to cancel the registered instrument once it was registered, as the proceedings before the Revenue forums are summary in nature, therefore, the specific allegation of fraud pertaining to the registered document requires evidence. As per provisions of Section 53 of the Land Revenue Act, 1967 (**the Act, 1967**), any person aggrieved by any entry in a record of rights, which was an outcome of fraud and misrepresentation, can avail the remedy by approaching the Civil Court under Sections 39 & 42 of the Specific Relief Act, 1877 (**the Act, 1877**), which has plenary jurisdiction under Section 9 of C.P.C. to declare the registered instrument to be void or voidable. For the sake of arguments, if it is

presumed that the registered instrument has been cancelled by the revenue hierarchy, even then, such cancellation has no legal sanctity, as the Revenue Officer or Revenue Court, in law, cannot examine the authenticity of a registered instrument in the exercise of the powers, conferred under the provisions of the West Pakistan Land Revenue Act, 1967. It is settled law that the revenue authorities have no jurisdiction to cancel a registered gift deed or any registered conveyance, as such matters lie exclusively within the domain of the Civil Court. Any order passed by a revenue officer cancelling a registered deed is coram-non-judice and without lawful authority. The Collector has not considered all the above legal and factual aspects while passing the impugned order; thus, the impugned order is not legally sustainable.

Without touching upon the merits of the dispute between the parties, and solely on the ground that the impugned order was passed in violation of the mandatory requirement of due process and without jurisdiction, Constitution Petition No.44 of 2025 is allowed; consequently, the impugned order dated 23.05.2024 is hereby set aside. The application filed by Respondent No.4 shall be deemed pending before the Collector/Deputy Commissioner, Quetta, who shall provide both parties the opportunity of hearings and decide the matter strictly in accordance with law.

Announced in open Court:
Quetta, on 8th December, 2025

Judge

Judge