

Form No: HCJD/C  
**JUDGMENT SHEET.**  
**IN THE ISLAMABAD HIGH COURT,**  
**ISLAMABAD.**

**Civil Revision No.70 of 2012**

***Haji Syed Rafi Ahmed, etc.***  
***Versus***  
***Fazal Hussain etc.***

**Petitioner's by : Mr. Sarfraz Ali Khan, Advocate.**

**Respondents' by : Zaheer Ahmad, Advocate for  
respondents No.8-A to 19.**

**Date of decision : 11.04.2019.**

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**AAMER FAROOQ, J. -** The petitioners filed a suit for Declaration, Possession and Permanent Injunction challenging the mutations with respect to Khasra Nos. 809, 1573, 1600, 1433, 975 and 1369, total measuring 51 kanal 04 marlas, situated in the revenue estate of Mouza Dharek Mohri, Tehsil & District Islamabad allotted to Syed Muhammad Zubair. It was pleaded that Fazal Hussain / defendant No.1 in connivance with others including the revenue staff got sanctioned Mutation No.257 dated 16.12.1972 and as a result whereof land owned by Syed Muhammad Zubair was transferred to Fazal Hussain/defendant No.1. The suit was contested and out of divergent pleadings of the parties six (06) issues were framed; one of the issues was regarding the suit being

barred by limitation. After recording of the evidence the learned Trial Court vide judgment and decree dated 11.12.2000 dismissed the suit filed by the petitioners. Appeal was preferred by the petitioners which was also dismissed vide judgment and decree dated 21.5.2012.

**2.** Learned counsel for the petitioners, *inter-alia*, contended that the limitation period for suit for declaration and permanent injunction is six (06) years from the date of knowledge and the documentary evidence was presented that the petitioners got knowledge after he applied for the certified copies of the mutations, hence the suit was within the limitation period.

**3.** Learned counsel for the respondents 8-A to 19, *inter-alia*, contended that the suit was barred by limitation and has rightly been dismissed. Respondents No. 1 to 7 were ordered to be proceeded ex-party on 26.06.2018.

**4.** Learned counsels for the parties have been heard and the documents placed on record examined with their able assistance.

**5.** The petitioners in the suit pleaded that the cause of action accrued on the date of mutation based on fraud and secondly when they came to know about it two (02) years back i.e. before filing of the suit. The petitioner did not mention the source or exact date of knowledge in the oral evidence tendered by the petitioners. No where they stated their source of knowledge nor the precise date thereof. The petitioners were required to lead cogent evidence to the effect about the date and of source of knowledge

which they failed to do so. The suit was filed almost after 12 years from the date the impugned mutation was sanctioned. No ground for even condonation was made out as the petitioner had the knowledge about mutation earlier and even had challenged the same as per the impugned judgment.

**6.** The judgment impugned does not suffer from any jurisdictional error warranting interference in the instant petition.

**7.** In view of the same, the petition is without merit and is accordingly dismissed.

**(AAMER FAROOQ)**  
**JUDGE**

\*Niqab M\*