

JUDGMENT SHEET

**IN THE ISLAMABAD HIGH COURT,
ISLAMABAD
JUDICIAL DEPARTMENT**

WRIT PETITION NO. 1717 OF 2006

MST. GULZAR BIBI AND 2 OTHERS

VERSUS

THE CHIEF COMMISSIONER, ICT ETC.

DATE OF HEARING 19-12-2008

Dr. G.S. Khan Advocate, for petitioner No.1.

Raja Anwar-ul-Haq Advocate, for petitioner No.2.

Mr. Shamshadullah Cheema Advocate, for petitioner No.3.

Raja M. Aleem Khan Abbasi, Standing Counsel.

Raja Inam Amin Minhas Advocate for respondents No.1 to 3.

Ch. Afrasiab Khan Advocate, for respondents No.6 to 20.

Syed Abdul Aziz Shah Advocate.

Syed Wajid Ali Gillani Advocate.

Mr. Abdul Zahoor, Naib Tehsildar, Islamabad.

Mr. Zakir, Patwari, revenue estate, Jhangi Syedan, Islamabad.

JUDGMENT

Sardar Muhammad Aslam C.J. This judgment shall

dispose of both the writ petitions No.1717 of 2006 and 1762 of 2006, as both impugn the order of Chief Commissioner, Islamabad dated 21-06-2006.

2. Both the writ petitions are directed against the order of Chief Commissioner, Islamabad exercising the powers of Board of Revenue, ICT, Islamabad allowing revision of the respondents and setting aside the concurrent findings recorded by Deputy

Commissioner, Islamabad exercising the powers of Commissioner (Revenue), Islamabad as well as Assistant Commissioner/District Collector, Islamabad, directing the parties to seek remedy from the civil court.

3. The Collector, Islamabad-respondent No.3 received a complaint, through the Chief Executive Secretariat, National Accountability Bureau, Investigation Wing-CIT, Islamabad of tampering in various revenue record of Mauza Jhangi Syedan, Islamabad. After thorough examination of record and report from Tehsildar/Field Revenue Staff, found that entries against the following khewat numbers of Misal-e-Haqiat, 1955-56, of revenue estate, Mauza Jhangi Syedan, Islamabad have been tampered:-

22, 25, 32, 33, 34, 41, 44,

46, 82, 83, 84, 87, 89,

146, 147, 148, 163, 265

Comparison of old and new Khewat numbers is as under:-

Khewat number as per Misal-e-Haqiat, 1956-57	New Khewat number as per Jamabandi 1990-91
22	139, 140, 141 192, 193, 409,410
25	144,145
44	191
46	166
82	51
84	55
87	57, 58,409,410
89	71,72
92	74,75,76
146	194,195,196,409
148	409
163	252, 253, 254
265	405

The Collector passed order dated 12-3-2001 for correction of revenue record of following Khewat numbers of Mauza Jhangi

Syedani, Islamabad as there was an injunctive order against the rest:-

"139, 140, 141, 193, 192, 191, 166, 55, 58, 71,
72, 74, 75, 76, 194, 195, 196, 252, 253 and 254."

4. The order dated 12-03-2001 was assailed, by respondents No.6 to 20, in appeal before respondent No.2, who dismissed the appeal vide his order dated 07-01-2005. Revision petition No.02/2005 was filed before respondent No.1, exercising the powers of Board of Revenue, Islamabad, who accepted the same vide his order dated 21-6-2006 directing the parties to seek their remedy from the Civil Court, which has given rise to this petition.

5. Petitioners learned counsel have contended that revenue record was tampered with, hence rightly ordered to be corrected by the forum below through concurrent orders which have been set aside by the Chief Commissioner, Islamabad merely on the ground that the parties have a remedy in civil court; the learned Chief Commissioner has lost sight of the provision of Section 172 of Land Revenue Act, 1967, which confer exclusive jurisdiction upon the revenue courts to order correction of entries ;fraud vitiates the most solemn proceedings; concurrent findings of fact can not be set aside in exercise of its revisional jurisdiction unless the findings are based on misreading and non-reading. Reference has been made to **PLD 1966 W.P. (Rev.) 80 (Fateh Muhammad versus Maula Bakhsh) PLD 1967 W.P. (Rev.) 9 (Ch. FATEH KHAN versus Mst. SHAHZAD BEGUM) PLD 1991 Lahore 314 (DILMIR and others versus MEMBER, BOARD OF REVENUE, PUNJAB,**

LAHORE and 9 others) 1992 SCMR 1334 (MUHAMMAD TUFAIL versus MEMBER (COLONIES), BOARD OF REVENUE and others) 1998 CLC 1216 (IQBAL KHAN through Legal Heirs and 2 others versus MUHAMMAD ILYAS & 5 others) and a Memorandum No. 583-85 468/Lahore, Board of Revenue, Punjab, Lahore,".

6. On the other hand learned counsel for the respondents vehemently argued that long standing entries appearing in the settlement record can not be changed by the revenue authorities in summary manner without the order of civil court. Reference has been made to **2002 YLR 2249 [Lahore] MUHAMMAD ABDULLAH and 5 others versus SHEHZAD HUSSAIN and 8 others) 2004 YLR 2992 [Lahore] (HIMAT alias ALLAH DEYA Versus Rehmat) PLD 1994 Peshawar 249, (Mst. GULPARI alias GULBARO versus ZARIN KHAN and others) 1994 MLD 2254 [Lahore] MUHAMMAD ISHAQ Versus MEMBER (R), BOARD OF REVENUE, PUNJAB, LAHORE AND 18 others) 2006 CLC 876 [Lahore] (ANJUM MAHMOOD and 5 others versus RIZWAN AHMAD and 7 others) 1996 CLC 1690 [Board of Revenue Punjab] (Mst. SURRAYIA BANO versus Mst. NAZIA BANO and others)** ; that the matter is sub-judice before the civil court involving complicated question of facts and law, hence the constitution petition is not maintainable. Reference has been made to **PLD 1968 Supreme Court 185 (Chowhury TANBIR AHMAD SIDDIKY versus THE PROVINCE OF EAST PAKISTAN AND OTHERS), 2004 SCMR 604 [Supreme Court of Pakistan] (NEMAT ALI and another versus Malik HABIB ULLAH and others)**

and that the report of revenue officials seeking correction in entries is ex-parte, hence of no avail.

7. Heard, record perused.

8. Before attending to the merits of the case, I deem it appropriate to go through the case law cited by both the sides to find out the ratio decidendi deducible from the above case law.

PLD 1966 W.P. (Rev.) 80:- It was held that concurrent findings of facts can not be interfered in revisional jurisdiction.

PLD 1967 W.P. (Rev.) 9:- It was held that revenue authorities were not precluded from correcting, by way of review, wrongful entries of mutations secured through fraud or collusion of revenue subordinates.

PLD 1991, LAHORE 314:- correction of any entry in the record-of-rights, periodical record or register of mutations having been expressly barred by Section 172(2)(vi) of the Act from the jurisdiction of Civil Courts, errors in such record could be rectified by the Revenue Authorities alone.

1992 SCMR 1334:- The dispute pertained to allotment of horse-breeding grant in the Horse Breeding Scheme. The concurrent findings of the revenue officials were not interfered with holding that so far as the question of entitlement is concerned, namely, as to who is the best person entitled to the allotment of the grant, concurrent findings of facts have been recorded by the revenue officials and the same calls for no interference, there being no judicial errors in the orders.

1998 CLC 1216:- Rectification of mutation was held justified for entries based on fraud and concealment of facts. Error which had appeared due to incidental slip, could be corrected by revenue authorities at any stage and such entry could not create any right in favour of person, who is guilty of securing the same by concealment of facts.

MEMORANDUM NO. 583-85 468/LHR. Board of Revenue, Punjab, Lahore, Dated 07-05-1985:-

Restriction on variation of entries in records:-

Entries in a record of rights or in a periodical record, except entries mentioned in the periodical record by Patwaris under clause (a) of Section 43 with respect to un-disputed acquisition of interest referred to in that section, shall not be varied in subsequent records otherwise then by:-

- (a) making entries in accordance with facts proved or admitted to have occurred;
- (b) making such entries as are agreed to by all the parties interested therein or are supported by a decree or order binding on those parties; and
- (c) making new maps where it is necessary to make them.

PLD 1968 SUPREME COURT 185 :- A number of petitions under the then Article-98 of the constitution of 1962 were filed questioning the notifications issued

under sub-section (2) of Section 3 of the East Bengal State Acquisition and Tenancy Act, 1950. In one of the petition at the time of hearing, it was observed by the High Court that a regular suit, filed by the appellant to establish the nature of the property, is pending in the civil court, which would be a sufficient ground for denying relief in constitutional jurisdiction.

PLD 1994 Peshawar 249 :- *Civil Revision before the High Court arose out of a declaratory suit filed before the civil court. The controversy between the parties was as to whether the jurisdiction of civil court is barred under Section 172(2) (vi) of Land Revenue Act, 1967 and whether the suit is barred by the principle of constructive re judicata. The facts involved were as to whether the petitioner was daughter of deceased land-lord requires evidence, hence jurisdiction of civil court is not barred.*

1994 MLD 2254 [Lahore] :- *The dispute related to a sale made through sale deed in violation of para. 25 of the Land Reforms Regulation, 1959. The M.B.R. set aside the transaction of sale. High Court, held that it was not a case of mere rectification of revenue entries. Question of title has been decided by the learned Member, Board of Revenue, who had no jurisdiction in the matter.*

1996 CLC 1690 [Board of Revenue Punjab]:- The case related to a review of mutation and it was held that the transaction was made through a registered sale deed and the said document holding the field, petitioner can not be deprived of his valuable rights.

2002 YLR 2249 [Lahore] :- The controversy between the parties, in this case was as to whether Mst.Ghulam Ayesha had been appointed as guardian for the land of Wafa Abbas minor, in village Kamala or his guardianship will extend to village Jalla Makhdoom as well. In this view, it was held that this factual controversy requires evidence.

2004 SCMR 604 [Supreme Court of Pakistan] :- The facts of the case were that an application was moved for review of mutations before additional Commissioner on which an order was passed by the Collector, directing Tehsildar for its disposal as per law. Respondents filed a suit for declaration and injunction questioning assumption of jurisdiction by the Collector. Stance taken by the plaintiff was controverted and an application for rejection of plaint under Order 7 Rule 11 CPC was moved. Plaint was rejected. Decision was affirmed in appeal. The High Court accepted the civil revision and remitted the case to the trial court. Leave was sought against the order which was refused on the ground that the rights of the parties as agitated by both

the sides are to be determined by a court which is seized of the civil suit.

2004 YLR 2992 [Lahore]:- *This matter arose out of a civil suit. It was observed that civil court can not assume the function performable by revenue officials under the Land Revenue Act, 1967, but whenever a dispute with regard to title of property comes for determination the only forum for this purpose is civil court.*

2006 CLC 876 [Lahore]:- *It was a suit for declaration pleading that a decree was passed in favour of defendants and the same is illegal and void. The court in that context relying on the provisions of Section 12(2) CPC directed return of the plaint.*

9. On examination of the case law, I am of the opinion that revenue courts have exclusive jurisdiction under Section 172 of the Land Revenue Act, 1967 to direct correction of an entry in the revenue record even if it is in the settlement record, old and long standing, if not supported by any decree, order or judgment of the court and varied in violation of Section 45 of revenue Act.

10. On access to the original record and its examination, in presence of the learned counsel for both the parties, it manifests interpolation and tampering. When confronted with such interpolation of record, learned counsel for the respondents replied that evidence is required on this score. Stance of the

revenue officer is that disputed entries in the revenue record are result of interpolation, fraud and are not backed by any order of the court or revenue officer.

11. The order of Assistant Commissioner/Collector was well reasoned, which was affirmed by the Deputy Commissioner/Commissioner (Revenue). These concurrent orders were not amenable to revisional jurisdiction, in the absence of any mistake apparent on the face of record. The original record clearly indicates interpolation and its tampering. Admittedly, the beneficiary of such interpolation and tampering are the contesting respondents. Their names have been entered against certain khewats, for the first time, while shares have been increased against some of the khewat numbers without acquisition of any title document. Khewat-wise position is recorded below:-

Khewat No.	Jamabandi for the year 1944-45.	Khewat No.	Jamabandi for the year 1952-53	Khewat Number	Misal-e-Haqiat 1956-57	Khewat Numbers Jamabandi 1990-91	Observation by the court
23	<p>NAME OF OWNERS</p> <p>Total 24 share as under:-</p> <p>Qurban Hussain Shah son of Hayat Shah-3- share</p> <p>Inayat Hussain Shah- Lal Hussain Shah- Ibrar Hussain Shah-Ghulam Hussain Shah sons of Nazar Shah---6 shares each</p> <p>Mst. Hussain Fatima widow of Mehtab Shah-3 share</p> <p>Mst. Nazir Fatima widow of Nazir Hussain Shah-3 share</p> <p>Karam Hussain Shah son of Fazal Hussain Shah-9 share</p> <p>Syed Mshahadi residents.</p>	23	<p>NAME OF OWNERS</p> <p>Total 196 share as under:-</p> <p>Lal Hussain Shah- Ibrar Hussain Shah- Ghulam Hussain Shah sons of Nazar Shah--- 33 shares each</p> <p>Ashiq Hussain Shah son of Qurban Hussain Shah-9 share</p> <p>Mst. Hussain Fatima widow of Mehtab Shah-18 shares</p> <p>Karam Hussain Shah son of Fazal Hussain Shah--- 36 shares caste Syed Mashahadi residents.</p> <p>Abdul Majeed Shah- Meer Alam Shah- Abdul Hameed Shah-Abdul Aziz Shah-Mehboob Elahi Shah-</p> <p>"A to Muhammad Rafique Shah sons of Fazal Din Shah caste Qureshi Hashmi- actual owners-100 shares"- residents of Thulla Syedan. A".</p>	22	<p>NAME OF OWNERS</p> <p>Total 96 share as under:-</p> <p>Lal Hussain Shah- Ibrar Hussain Shah- Ghulam Hussain Shah sons of Nazar Shah--- 33 shares each</p> <p>Ashiq Hussain Shah son of Qurban Hussain Shah-9 share</p> <p>Mst. Hussain Fatima widow of Mehtab Shah-18 shares</p> <p>Karam Hussain Shah son of Fazal Hussain Shah--- 26 shares caste Syed Mashahadi residents.</p> <p>"B to Fazal Din son of Sher Baz Khan-10 share"- B"</p> <p>Actual owners- caste Qureshi Hashmi resident of Thulla Syedan</p>	139 140 141 192 193 409 410	<p><i>In 1952-53, figure 1 was added to make the shares 196. In 1956-57, it was recorded as 96 shares. Interpolation is clear on original record. Change is not supported by any document.</i></p> <p>A to A:- Change was made by introducing the names without acquisition of title</p> <p>B to B:- Names at A to A were omitted and instead B to B substituted.</p>

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Khawat No.	Jamabandi for the year 1944-45	Khewat No.	Jamabandi for the year 1952-53	Khewat No.	Misal-e-Haqiat 156-57	Khewat Numbers Jamabandi 1990-91	Observation by
23	<p>NAME OF OWNERS</p> <p>Total 24 share as under:-</p> <p>Qurban Hussain Shah son of Hayat Shah-3 share</p> <p>Inayat Hussain Shah- Lal Hussain Shah- Ibrar Hussain Shah-Ghulam Hussain Shah sons of Nazar Shah---6 shares each</p> <p>Mst. Hussain Fatima widow of Mehtab Shah---3 share</p> <p>Mst. Nazir Fatima widow of Nazir Hussain Shah---3 share</p> <p>Karam Hussain Shah son of Fazal Hussain Shah---9 share caste Syed Mshahadi residents.</p>	23	<p>NAME OF OWNERS</p> <p>Total 196 share as under:-</p> <p>Lal Hussain Shah- Ibrar Hussain Shah- Ghulam Hussain Shah sons of Nazar Shah--- 33 shares each</p> <p>Ashiq Hussain Shah son of Qurban Hussain Shah---9 share</p> <p>Mst. Hussain Fatima widow of Mehtab Shah---18 shares</p> <p>Karam Hussain Shah son of Fazal Hussain Shah--- 36 shares---Abdul Majeed Shah- Meer Alam Shah-Abdul Hameed Shah--- Abdul Aziz Shah- Mehboob Elahi Shah-Muhammad</p> <p>"C to Rafique Shah sons of Fazal Din Shah caste Qureshi Hashmi- actual owners-"100 shares"</p> <p>"c" residents of Thulla Syedan</p>	25	<p>NAME OF OWNERS</p> <p>Total 96 share as under:-</p> <p>Lal Hussain Shah---11 shares</p> <p>Ibrar Hussain Shah-Ghulam Hussain Shah - equal shares--- Haqdaran shamlat---sons of Nazar Shah--- Ashiq Hussain Shah sons of Qurban Hussain Shah---9 share</p> <p>22 shares</p> <p>Mst. Hussain Fatima widow of Mehtab Shah---8 shares</p> <p>Karam Hussain Shah son of Fazal Hussain Shah--- 36 shares</p> <p>Abdul Majeed Shah-Meer Alam Shah- Abdul Hameed Shah- Abdul Aziz Shah- Mehboob Elahi Shah-</p> <p>"D to Muhammad Rafique Shah sons of Fazal Din Shah caste Qureshi Hashmi residents of Thulla Syedan ---equal shares-actual owners-"11 share"</p> <p>"D"</p>	144 145	<p>C to C - Allocated 100 shares incorrectly and then changed as mentioned in D to D .</p> <p>Change not supported by document.</p>

Khwat No.	Jamabandi for the year 1944-45	Khwat No.	Jamabandi for the year 1952-53	Khwat No.	Misal-e-Haqiat 1956-57	Khwat Numbers Jamabandi 1990-91	Observation by court
	-	46	<p>NAME OF OWNERS:-</p> <p>Total 32 share as under:-</p> <p>Mst. Hussaln Fatima widow of Mehtab Shah—3 shares</p> <p>Mst. Bewi Noor wife of Fazal Din caste Qureshi, resident of Thulla Syedan—</p> <p>"1 share"</p> <p>Rehman Son of Mehsam Ali-Muhammad Bakhsh son of Kamal-caste Awan—6 share</p> <p>Karim Bakhsh son of Waris—4 shares</p> <p>"E to Fazal Din son Sher Baz caste Qureshi resident of Thulla Syedan—</p> <p>"7 shares"—</p> <p>"E"</p> <p>Noor Ahmad —Fazal Ahmad—Meer</p> <p>Dad—Karim Dad---</p> <p>Fazal Elahi sons of Elahi Bakhsh caste Awan- 7 equal shares-Muhammad Aameen son of Hayat Bakhsh- 4 share caste Aawan resident of Chehllo.</p>	44	<p>NAME OF OWNERS:-</p> <p>Total 64 share as under:-</p> <p>Mst. Hussaln Fatima widow of Mehtab Shah—6 shares and Haqdar Shamlat- 9 share</p> <p>Mst. Bewi Noor wife of Fazal Din caste Qureshi—"4 share</p> <p>Abdul Rehman Son of Mehsam Ali-Muhammad Bakhsh son of Kamal-caste Awan—8 share</p> <p>Karim Bakhsh son of Waris—8 shares</p> <p>"F to Fazal Din son Sher Baz Khan</p> <p>"22 shares"—</p> <p>"E"</p> <p>Noor Ahmad - Fazal Ahmad—Meer Dad—Karam Dad---</p> <p>Fazal Elahi sons of Elahi Bakhsh caste Awan- residents of Chehllo share equal to 10 shares-</p> <p>Muhammad Aameen son of Hayat Bakhsh- 6 shares-owners in possession—Lal Hussain Shah etc. Haqdaran Shamlat.</p>	191	<p><i>Correct share mentioned in Jamabandi 1952-53 as "1" was substituted as "4" without any supporting document.</i></p> <p><i>Entry of 7 share was substituted by 22 share without any supporting document.</i></p>

Khewat No.	Jamabandi for the year 1944-45.	Khewat No.	Jamabandi for the year 1952-53	Khewat Number	Misal-e-Haqiat 1956-57	Khewat Numbers Jamabandi 1990-91	Observation by court	
-	<u>Name of owners</u>	50	<u>Name of owners</u> Total 288 share Lal Hussain Shah- Ibrar Hussain Shah- Ghulam Hussain Shah sons of Nazar Shah -share equal to 27 share Ashiq Hussain Shah son of Qurban Hussain Shah- 27 share Hussain Fatima widow Mehtab Shah 54 share Karam Hussain Shah son of Fazal Hussain Shah-66 share Mst. Badral Bi wife of Niaz Hussain Shah- 24 share Chanan Shah son of Ameer Haider Shah- 30 share Safdar son of Peer Bakhsh 2/3 share - Fazal Noor widow of Meh 1/3 share <u>"G to Fazal Din son of Sher Baz Khan "54 share"</u> <u>"G"</u> Caste Qureshi residents of thulla Syedan owners in possession	46	<u>Name of owners</u> Total 288 share as under Mst. Hussain Fatima widow of Mehtab Shah-54 share Ashiq Hussain Shah son of Qurban Hussain Shah 27 share Karam Hussain Shah son of Fazal Hussain Shah-26 share Ghulam Sarwar son of Jalal Din caste Qureshi-24 share Chan Shah son of Ameer Haider Shah (30) share Safdar son of Mehr Bakhsh- 6 share <u>"H to Fazal Din son of Sher Baz"94 share"</u> <u>"H"</u> Rakhmat Hussain Shah son of Muhammad Shah-27 share Lal Hussain Shah -Ibrar Hussain Shah- Ghulam Hussain Shah sons of Nazar Shah-99 share, caste Syed Mashhadi residents.	166		

Figure 54 share in "G to G" in Jamabandi for the year 1952-53 substituted with figure 94 share, in 1956-57; "H to H".

-	-	85	<p>Ghulam Shabir Shah son of Fazal Shah owner in possession- 1/3 share</p> <p>Abdul Latif son of Ismail caste Qureshi Chehello 1/3 share</p> <p>Safdar Hussain Shah-Zafar Ali Shah sons -14 share</p> <p>Mst. Ghulam Janat -Zenab Fatima daughters- share equal to 7 share-Mst. Kaneez Fatima -3 share widow Qaim Shah 1/6 share</p> <p>Ali Akbar Shah son of Ahmad Ali Shah 1/6 share caste Syed Mashhadi residents.</p>	82	<p>Irshad Hussain shah son of Ali Haiderf Shah 1/3 share</p> <p>Safdar Hussain Shah-Zafar Ali Shah -share equal to 14 share</p> <p>Mst. Ghulam Janat -Mst. Zainab Fatima -daughters -7 share</p> <p>Ali Akbar Shah son of Ahmad Ali Shah -1/6 share</p> <p>Abdul Hameed Shah son of Fazal Din Shah-1/3 share</p> <p>Caste Qureshi Hashmi residents Thulla syedan</p>	51	<p>{vide "mutation No. 1967" land was purchased from the column of cultivation but implemented in the column of ownership }</p>
-	-	90	<p>Mst. Sahib Nishan widow of Ahmad Shah 2/3 share Safdar Hussain Shah-Zafar Ali Shah sons -share equal to 14 share</p> <p>Mst. Ghulam Janat -Zainab Fatima daughters - share equal to 7-share-Mst. Kaneez Fatima widow of Qaim Ali Shah -1/6 share</p> <p>Ali Akbar son of Ahmad Ali Shah-1/6 share caste Syed Mashhadi residents.</p>	84	<p>Abdul Majeed Shah etc sons of Fazal Din Shah-half</p> <p>Mst. Sahib Nishan wife of Ahmad Shah 2/3 share - Safdar Hussain Shah-Zafar Ali Shah sons - share equal to 14 share- Mst. Ghulam Janat -Zainab Fatima daughters- share equal to 7 share</p> <p>Mst. Kaneez Fatima- share share widow of Qaim Ali Shah- 1/6 share -Ali Akbar Shah son of Ahmad Ali Shah-1/8 share caste Syed Mashhadi 1/2 share residents.</p>	55	<p>{ Abdul Majeed Shah etc. sons of Fazal Din Shah are not owners in Jamabandi for the year 1952-53 but have become owners in Jamabandi for the year 1956-57 without any mutation. }</p>

85/1	Total 06 share as under	91	Total 09 share as under	87	Total 07 share as under:-		{ Both entries 9 share and 7 share in 1952-53 and 1956-57 respectively were recorded incorrectly. }
	Fazal Hussain son of Ameer Haider Shah-2 share		Fazal Shah son of Ameer Haider Shah-2 share		Fazal Shah son of Ameer Haider Shah-2 share	57	
	Ali Haider Shah son of Zaman Shah-3share Original owners-		Ali Haider Shah son of Zaman Shah-3-share original owners		Ali Haider Shah son of Zaman Shah - 3 share-original owners	58	
	Irshad Hussain Shah son of Ali Haider Shah-01 share caste Syed Mashhadi residents.		Irshad Hussain Shah son of Ali Haider Shah - 01 share		Irshad Hussain son of Ali Haider Shah-01 share	409	
			Abdul Majeed Shah -Meer Alam Shah- Abdul Hameed Shah-Abdul Aziz Shah- Mehboob Elahi Shah-		<u>Fazal Din son of Sher Baz caste Qureshi Hashmi residents of Thullah Syedan-01 share</u>	410	
			Muhammad Rafique Shah sons <u>Fazal Din shah caste Qureshi-3-share</u> residents of Thullah Syedan				

-	=	93	NAME OF OWNERS <u>Total 12 shares</u> Fazal Shah son of Ameer Haider Shah-actual owners-4 share Lal Hussain Shah - Ibrar Hussain Shah - Ghulam Hussain Shah sons of Nazar Shah --- 1 share-Ashiq Hussain son of Qureshi Hussain Shah owner--- 1 share Ali Haider Shah son of Zaman Shah-2 share Fatta son of Mehnda - 4 share owner-4 share caste Aawan - residents.	89	NAME OF OWNERS <u>Total 36 share</u> Fazal Shah son of Ameer Haider Shah---12 share Lal Hussain Shah son of Nazar Shah-1 share Ashiq Hussain shah son of Qurban Hussain Shah -1 share-Ali Haider Shah son of Zaman Shah -6 share Sher -Ali Shan <u>Meer Alam shah-Abdul Majeed Shah-Abdul Hameed Shah-Mehboob elahi Shah-Muhammad Rafique Shah-Abdul Aziz Shah sons of Fazal Din Shah -actual owners -6 shares -owners in possession ---8share</u>	71 72	Meer Alam Shah were not owners in 1952-53 but made in 1956-57 without supporting document.
-	=	93	NAME OF OWNERS Ashiq Hussain Shah son of Qurban Hussain Shah-1/2 share Lal Hussain Shah son of Nazar Shah 1/6 share caste Syed Mashhadi. Meer Alam Shah 1/6 share-Abdul Majeed Shah-Mehboob Elahi-Muhammad Rafique Shah 1/6 share sons of <u>Fazal Din Shah caste Qureshi residents of Thulla Syedan "owners in possession".</u>	92	NAME OF OWNERS <u>Total 402 share</u> Ashiq Hussain Shah son of Qureshi Hussain Shah-250 share- Allah Ditta son of Hashoo 18 share Meer Alam Shah-67 share Abdul Majeed Shah-Mehboob Elahi Shah-Muhammad <u>Rafique Shah -share equal to 67 share sons of Fazal Din Caste Qureshi Hashmi residents " Original owners".</u>	74 75 76	In 1952-53, Qabza Malkan only substituted with "Asl Malkan".

23	NAME OF OWNERS Total 24 share as under Qurban Hussain Shah son of Hayat Shah -3 share Inayat Hussain- Lal Hussain Shah-Ibrar Hussain Shah-Ghulam Hussain Shah sons of Nazar Shah-6 share- Mst. Hussain Fatima widow of Mehtab Shah -3 share Mst. Nazir Fatima widow of Nazir Hussain Shah-3 share---Karam Hussain Shah son of Fazal Hussain Shah -9 share caste Syed Mashhadi residents.	23	NAME OF OWNERS <u>"Total 196 share"</u> Lal Hussain Shah-Ibrar Hussain Shah-ghulam Hussain Shah sons of Nazar Shah --- 33 share- Ashiq Hussain Shah son of Qurban Hussain Shah-9 share---Mst. Hussain Fatima widow of Mehtab Shah---18 share Karam Hussain Shah son of Fazal Hussain Shah -36 share caste Syed Mashhadi. Abdul Majeed Shah-Meer Alam Shah- Abdul Hameed Shah--- Abdul Aziz Shah--- Mehboob Elahi Shah--- <u>Muhammad Rafique Shah sons of Fazal Din Shah caste Qureshi Hashmi. original owners "100 share"</u> Residents of Thulla Syedan	146	NAME OF OWNERS <u>Total 107 share as under</u> Lal Hussain Shah son of Nazar Shah ---11 share- Ashiq Hussain Shah son of Qurban Hussain Shah-9 share Mst. Hussain Fatima widow of Mehtab Shah -18 share Karam Hussain Shah son of Fazal Hussain Shah -36 share caste Syed Mashhadi residents Abdul Majeed Shah-Meer Alam Shah- Abdul Hameed Shah-Abdul Aziz Shah-Mehboob elahi Shah- <u>Muhammad Rafique Shah "sons of Fazal Din -22 share"</u> actual owners 11 share owners in possession 11 share caste Qureshi residents of Thullah Syedan.	194 195 196 409	 <
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-	-	149	<p>Mst. Karam Begum widow of Madad Shah fourth</p> <p>Sultan Akbar shah- Ali Asghar Shah sons of Syed Shah -share fourth</p> <p>Hussain Shah son of Karam Shah—Mst. Mehr Fatima widow of Ali Haider Shah-Mst. Mehr Nishan widow of Nawab Shah share equal to fourth</p> <p>Mst. Fazal Nishan widow Mehr Shah - eighth</p> <p>Ghulam Hussain Shah—Iqbal Hussain Shah-sons Ameer Ahmad Shah -share eight caste Syed Mashhadi residents.</p>	163	<p>Total 192 share as under</p> <p>Amanat Hussain Shah-Ghulam Abbas Shah sons of Mst. Channan Bibi -share holder shamlat rights -30 share</p> <p>Sultan Akbar shah-24 share</p> <p>Ali Asghar Shah 21 share owner in possession 3-share sons Said Shah-Hussain Shah son of Karam Shah real owner-34 share owner in possession 12 share</p> <p>Mst. Mehr Nazima widfow of Ali Haider Shah -Mst. Mehr Nishan widow of Nawab Shah- sharer equal to 20 share</p> <p>Fazal Jan widow Mehr Shah (24 share) Ghulam Hussain Shah-Iqbal Hussain Shah sons Ameer Ahmad Shah share equal 24 share caste Syed Mashhadi residents.</p> <p><u>"Abdul Majeed Shah- Abdul Hameed Shah-Mehr Alam Shah-Abdul Aziz Shah-Mehboob Elahi Shah-Muhammad Rafique Shah sons Fazal Din caste Qureshi residents Thulla Syedan owners in possession 15 share original owners-15 share"</u></p>	252 253 254	
222	Shamlat Deh according to share of ownership	229	<p>Shamlat deh according to share of ownership 2/3^d <u>Meer Alam Shah- Abdul Hameed Shah- Abdul Aziz Shah- Mehboob Elahi Shah-Muhammad Rafique Shah- Abdul Hameed Shah- sons Fazal Din Shah case Qureshi Hashmi residents 1/3 share</u></p>	265	<p>Shamlat Deh according to share of ownership 2/3 share</p> <p><u>Abdul Majeed Shah, Meer Alam Shah- Abdul Hameed Shah- Abdul Aziz Shah-Mehboob Elahi Shah-Muhammd Rafique Shah sons Fazal Din 1/3 share</u></p>	405	<p><i>Entries in Jamabandi 1952-53 and 1956-57 were made incorrectly. They were not owners in shamlat Deh.</i></p>

12. Interpolation and tempering of revenue record is floating as mentioned in para-11. No judgment, order or proof regarding acquisition of ownership is available with the respondents in support of entries made in their favour. Driving the parties to civil litigation, which is spread over decades, will not be in the

interest of justice in a case of such a nature not involving any complicated question of fact calling for evidence. Jurisdiction vested in revenue hierarchy, if not exercised, then provisions of land revenue Act are to become redundant.

13. Considered from all aspects, the entries made in the revenue record in clear disregard to provisions of Section 45 Land Revenue Act, 1967, by practicing fraud can not be given blessing. Such entries are required to be corrected as and when brought to the notice of revenue officers. The Chief Commissioner has closed his eyes to the factual position and went for technical knock out. Revisional jurisdiction exercised by him was arbitrary and thus his order is not sustainable.

14. For what has been discussed above, constitution petitions No.1717 of 2006 and 1762 of 2006 are allowed, impugned order of Chief Commissioner dated 21-06-2006 is set aside, and, in consequence thereof, Revision petition will be deemed to have been dismissed and orders passed by District Collector and Commissioner are restored.

CHIEF JUSTICE

M. Abid Khan

Announced in open court on 26.1.2009

CHIEF JUSTICE

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Amud

*Blue slip
verified.*

27/1/09