

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN,
GILGIT.**

Before:-

**Mr. Justice Dr. Rana Muhammad Shamim, Chief Judge.
Mr. Justice Javed Iqbal, Judge.**

**Civil Appeal No. 11/2017
In
CPLA No. 79/2017**

Secretary Education & others

Petitioners.

Versus

Sikandar Khan

Respondent.

PRESENT:-

1. The Advocate General alongwith Mr. Ali Nazar Khan Advocate-on-Record for the petitioners.
2. Mr. Johar Ali Khan Advocate/Legal Adviser Education Department Gilgit-Baltistan.
3. Mr. Munir Ahmed Advocate alongwith Mr. Rehmat Ali Advocate-on-Record for respondent.

DATE OF HEARING: - 18.05.2018.

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This appeal has arisen out of the impugned judgment dated 20.05.2015 in Civil First Appeal No. 18/2012 passed by the learned Chief Court whereby the said Civil First Appeal filed by the petitioners was partially accepted by directing the petitioners to pay compensation of the land of the respondent used for the construction of Middle Boys School Minawar at the prevailing rate at the time of institution of the suit, hence, this petition for leave to appeal. This court vide order dated 14.04.2017 granted leave to appeal. The notices were issued to the respondents vide order dated 22.03.2016 and the case is heard today.

2. Briefly, the facts of the case are that the respondent filed Civil Suit No. 68/2006 in the Court of learned Senior Civil Judge Gilgit against the petitioners for recovery of Rs. 10,20,000/- (rupees ten lac and twenty thousand only) alongwith compulsory acquisition charges at the rate of 21,500 per annum. As per averments of the respondent that a piece of land under Khasra No. 3285/149 measuring 05 Kanals and 02 Marlas situated at Minawar was obtained by the petitioners for construction of building of Boys Middle School with the condition that the children of the respondent shall be appointed against the post of Grade-01 which may be approved or created in the said Middle School. The petitioners in violation of said terms/condition, have failed to appoint his children in Grade-01 rather they appointed someone else as chowkidar in the said School. Upon hearing, the learned Trial Court decreed the suit in favour of the respondent vide judgment dated 05.06.2013. The petitioners being aggrieved by and dissatisfied with, filed Civil First Appeal No. 18/2012 in the learned Chief Court which upon hearing was partially accepted vide impugned judgment dated 20.05.215, hence, this petition for leave to appeal.

3. The learned Advocate General alongwith Mr. Johar Ali Advocate/Legal Adviser Education Department appearing on behalf of the petitioners submits that the demand/requisition of villagers of Minawar a Boys Middle School was approved. They also submits that the notables of said villages rendered/provided land to the

Government free of cost with the condition that the respondent or his son would be taken in the service in BPS-01 as per prevailing customs & traditions of this region which is also available in Education Department rules/policy for acquiring such land by providing employment to the donor of his son thereto. Per learned counsels, accordingly the son of the respondent as well as the relative of the respondent namely Abid Hussain s/o Faiz Ali were appointed vide Office Order No. DDE(Glt)/2(3)/2001 dated 07.08.2001. They submit that the learned Courts below fell in error while passing judgments/orders. They add that if the land in question is restored to its owner, the students obtaining education in the School shall face great inconvenience and unbearable difficulty. They submit that the impugned judgment passed by the learned Chief Court as well as the judgment dated 05.06.2013 passed by the learned Trial Court are the result of misreading/non-reading of the facts of the case and the same are not sustainable. They pray that the concurrent findings of the learned Courts below may graciously be set aside.

4. On the other hand, Mr. Munir Ahmed Advocate appearing on behalf of the respondent supports the concurrent findings of the learned Courts below. He contends that the petitioners cannot utilize the property of respondent for a public project without compensating him. Per learned counsel, no property of a person can be snatched under the law without his free will and independent consent. He adds that the only lawful way is that the

petitioners prepare a fresh award of compensation at prevailing rates of locality and pay it to the respondent in circumstances. He submits that the learned Courts below have rightly passed the impugned judgments/orders. He prays that the concurrent findings of the learned Courts below may pleased be maintained being well reasoned and well founded.

5. We have heard the learned counsel for the respective parties at length, perused the material on record and gone through the concurrent findings of the learned Courts below. The learned Advocate General could not point out any infirmity or illegality in the well reasoned impugned judgment passed by the learned Chief Court, hence, no interference is warranted by this Court.

6. In view of the above discussions, we dismiss this appeal. Consequently, the impugned judgment dated 20.05.2015 in Civil First Appeal No. 18/2012 passed by the learned Chief Court is affirmed.

7. The appeal is dismissed in above terms.

Chief Judge.

Judge.