

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN,
GILGIT.
CPLA No.98/2014.**

Before:-

1. Mr. Justice Raja Jalal-ud-Din, Chief Judge.
2. Mr. Justice Muzaffar Ali, Judge.

1. Mst. Nani through (deceased) through Legal Heirs Aslam sons and Mst. Haji Bibi daughter of the deceased Bibi Nani residents of village Ahmedabad Tehsil Ali Abad District Hunza/Nagar.
2. Sakhi Ahmed Jan son of Ali Member R/O Village Grelt Tehsil & District Hunza/Nagar.

PETITIONERS/DEFENDANTS.

VERSUS

1. Ghullam Rasool son of late Laiman shah
2. Mst. Zar Bano
3. Mst. Bibi dalil
4. Mst. Khair-Ul-Nisa daughters of late Laiman Shah residents of Haiderabad Tehsil & District Hunza/ Nagar

RESPONDENTS/PLAINTIFFS.

PETITION FOR LEAVE TO APPEAL UNDER ARTICLE 60 OF GILGIT- BALSTAN SELF GOVERNANCE ORDER 2009 READ WITH RELEVANT PROVISIONS OF GILGIT- BALSTAN SUPREME APPELLATE COURT RULES AGAINST THE IMPUGNED JUDGMENT/ DECREE DATED 18/08/2014 PASSED BY SINGLE BENCH OF LEARNED CHIEF GILGIT-BALSTAN IN CIVIL REVISION PETITION NO.69/2013 WHEREBY THE LEARNED CHIEF COURT HAS ACCEPTED THE REVISION PETITION THROUGH OUT EX- PARTE WITHOUT ANY COGENT REASONS AND AGAINST THE MANDATORY PROVISIONS OF LAW.

FOR SETTING ASIDE THE IMPUGNED JUDGMENT/ DECREE DATED 18/08/2014 HOLDING THE SAME ILLEGAL, EX-PARTE, WITHOUT JURISDICTION, BASED HASTY MANNER. BY CONVERTING THIS PETITION FOR LEAVE TO APPEAL AND ACCEPTED THE APPEAL FOR THE ENDS OF JUSTICE LAW AND EQUITY.

Present:-

1. Mr. Joher Ali Advocate for the petitioners.

DATED of HEARING:-20-04-2015.

ORDER

Mr. Justice Muzaffar Ali, J.....This petition for leave to appeal has been directed against the order/Judgment dated 18-08-2014 passed by the learned Single Judge of Chief Court Gilgit-Baltistan, whereby the suit filed by the present respondents has been decreed ex-parte by accepting the revision petition No. C. Rev.69/2013.

The brief facts of the case are as such that the present respondents filed suit No. 11/2008 before the learned Civil Judge Hunza. The Trial Court dismissed the suit on merits. The present respondents being aggrieved and dissatisfied with the findings appealed against the same before the learned District Judge Hunza/Nagar, but the same appeal has also got the same fate. The present respondents assailed the concurrent findings of the lower courts before the Chief Court Gilgit-Baltistan through Revision Petition No. 69/2013.

The learned Single Judge of Chief Court Gilgit-Baltistan after receiving the revision petition issued notices to the present petitioners for their appearance before the Court and to defend the revision petition. The present petition despite service of summons failed to attend the Court and the learned Single Judge of Chief Court GB accepted the revision petition and decreed the suit property in favour of the respondents with costs for non prosecution, hence, this petition for leave appeal has been preferred before this Court.

At the very outset of the arguments, we confronted the learned Counsel for the petitioners with the point that the impugned order passed by the single Judge, chief Court, Gilgit-Baltistan is ex-parte on account of non prosecution by the present petitioners, as such the impugned order can be challenged before Chief Court Gilgit-Baltistan and how the petitioners filed the instant petition before this Court without exhausting the remedy available to them before the Chief Court. The learned counsel for the petitioners endeavored to meet the above point with the contention that there is not any specific provision in the CPC to

submit an application for restoration /re-admission of the revision petition, if the same is dismissed for default or accepted ex-parte for non prosecution. The counsel for the petitioners further stated that when a suit is dismissed in default or decreed ex-parte or decreed ex-parte than Order 9 Rule and 13 enable the aggrieved party to submit an application for setting aside the ex-parte decree or to restore the suit dismissed in default , likewise, when an appeal is dismissed or accepted ex-parte than Order 41 Rule 19 and 21 are available to rescue the aggrieved party, but in case of revision neither there is any provision available in the CPC to dismiss the revision petition in default to accept the same ex-parte for non-prosecution nor there is any specific provision is available for restoration of such like orders.

The supra points raised by the learned counsel for the petitioners prime facie are correct to the extent of no specific provision is available in the CPC for dealing the revision petition when the parties kept themselves absent from the Courts of law, similarly, no specific provision is available in the CPC for restoration of revision petition if dismissed in default.

The learned courts having no option but to exercise their inherent jurisdiction in appropriate cases where the parties let themselves absent from attending the Courts of law without sufficient reasons with the intention to prevent or to abuse the process of Courts.

In this juncture, it is worth to mentioning the point that Courts of Law particularly, the lower judiciary must differentiate absent of purpose of the parties either it was intentional or it was because of inevitable circumstances, furthermore, the Courts avoid

technicalities when the attitude of the parties expose their intention to prevent or to defeat the process of Court.

Since, the Courts dismiss the revision petitions in default or accept the revision petitions ex-parte for non prosecution in exercise of their inherent jurisdiction under Section 151 CPC as such aggrieved parties of such orders may also invoke the inherent jurisdiction of the Courts for setting aside such orders in proper cases.

In the instant case, the petitioners have ignored the remedy available to them to invoke the inherent jurisdiction of the courts in which the impugned order passed, the petitioners came to this Court directly through this petition for leave to appeal, therefore, leave to appeal is refused. The petitioners are first to exhaust the remedy available to them before the learned Chief Court Gilgit-Baltistan, Gilgit.

Chief Judge.

Judge.

