

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

CPLA. No. 17/2012.

Abdul Raziq s/o Rahim Noor r/o Jutial Tehsil & District Gilgit.
Petitioner.

Versus

Mst. Khoshab Jumma widow of Atta through legal heirs Ali Ahmed Jan and 4 others r/o Mouza Jutial Tehsil and District Gilgit.

Respondents.

**PETITION FOR LEAVE TO APPEAL UNDER ARTICLE 609
GILGIT-BALTISTAN (EMPOWERMENT & SELF GOVERNANCE)
ORDER 2009, BY GRANTING THIS PETITION FOR LEAVE TO
APPEAL CONVERTING INTO AN APPEAL WHILE SETTING ASIDE
THE IMPUGNED JUDGMENT DATED 08.05.2012 PASSED BY
THE CHIEF COURT GILGIT-BALTISTAN.**

PRESENT:-

Nemo for the parties.

DATE OF HEARING: - 20.04.2016.

ORDER.

Dr. Rana Muhammad Shamim, CJ....The case has repeatedly been called but neither the parties nor their counsels are in attendance today. The perusal of the record reveals that notices have been issued to the parties and the same have also been served upon them properly. Consequently, the petition is liable to be dismissed for non-Prosecution, we, however, want to decide this petition on merit as well. We perused the record of the case. The respondents filed a Civil Suit No. 122/86 in the court of learned Civil Judge 1st Class Gilgit for declaration. Which upon hearing vide judgment dated 28.11.2000 was dismissed declaring the same as vague and not being proved. The respondents feeling aggrieved by and dissatisfied with the judgment of learned Trial Court Gilgit filed Civil First Appeal No. 08/2001 before the learned Chief Court for setting aside the said impugned judgment of the learned Civil

Court Gilgit. Whereby, the appeal of the respondents was accepted vide judgment dated 08.05.2012 and the impugned judgment dated 28.11.2000 passed by the learned Civil Judge was set aside being without force. The petitioner being aggrieved filed this petition for leave to appeal for setting aside the impugned judgment dated 08.05.2012 and to maintain the judgment dated 28.11.2000 passed by the learned Civil Judge Gilgit.

2. The brief facts of the Petition are that the plaintiff is a resident of Jutial Gilgit and her ex-husband namely Mr. Ata has died and the respondent No. 01 has effected second marriage. The Suit land situated at Jutial was allotted to the son of respondent No. 01 namely Mukhtiar Alyas Bakhtawar by the then Assistant Political Agent vide order dated 31.01.1957 passed in file No. 152. The son of the respondent No. 01 was given possession of the said land. Later on the Suit Land was acquired by the Government and the possession of the property in question given to Armed Forces of Pakistan. The son of the respondent No. 01 was then serving in the Northern Scouts and he went to Skardu on account of his duty and he died somewhere at Skardu. Consequently, the respondent No. 01 had become helpless and the petitioner while taking benefit of the helplessness of the respondent No. 01 got prepared mutation of the said property in his name with the collusion of Revenue Authorities. The petitioner also got prepared the award No. DK.16/GLT/443/86 dated 29.07.1986 amounting to Rs. 6, 91,955/- (six lac ninety one thousand nine hundred and fifty five only) of the disputed property

in his name. The preparation of mutation and consequent thereto the preparation of award in the name of the petitioner was the result of fraud played against the rights of the respondent No. 01. The respondent No. 01 submitted that the mutation as well as the award had been prepared through fraudulent means hence the both are liable to be set aside. The learned Trial Court while deciding the Suit did not examine the important statement/documents and passed the judgment in a hasty manner and discuss the issues to its convenient by picking and choosing irrelevant and un-important facts.

3. We have perused the record of the case file thoroughly and gone through the impugned judgment dated 08.05.2012 in CFA.No. 08/2001 passed by the learned Chief Court as well as the judgment/decree dated 28.11.2000 passed by the learned Civil Judge Gilgit in Civil Suit No. 122/2009. The careful perusal of the record of the case file reveals that the learned Chief Court has rightly set aside the judgment/decree of the Trial Court while accepting the appeal of the respondent No. 01 as the judgment of the Trial Court was the result of misconception of law and misreading of the facts of the case. Consequently, we found no infirmity and illegality in the impugned judgment dated 08.05.2012 passed by the learned Chief Court in CFA. No.08/2001. No interference is warranted into it in the interest of justice. In view of the above discussions we convert this petition into an appeal and

the same is dismissed. The impugned judgment dated 08.05.2012 passed by the learned Chief Court is maintained.

The petition is dismissed in above terms.

Chief Judge.

Judge.

Whether the case is fit to be reported or not?