

**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.18 /2018
In
CPLA No.54/2016.**

Ali Afsar & others.

Petitioners.

Versus

Ali Rehmat son of Shafayo resident of Masoot Tehsil Sikanderabad
District Hunza/Nagar.

Respondent.

PRESENT:-

1. Mr. Sharif Ahmed advocate alongwith Mr. Ali Nazar Khan Advocate-on-Record for the petitioners.
2. Mr. Munir Ahmed Advocate alongwith Malik Kifayat-ur-Rehman advocate and Mr. Rehmat Ali Advocate-on-Record for the respondent.

DATE OF HEARING: - 22. 05.2018.

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This Civil petition for leave to appeal has arisen out of the impugned order dated 18.04.2016 in Civil Revision No. 103/2014 passed by the learned Chief Court Gilgit-Baltistan whereby the said Civil Revision filed by the respondent was accepted by setting aside the impugned Order dated 25.11.2014 passed by the learned Additional Sessions Judge Hunza/Nagar. The petitioners being aggrieved by and dissatisfied with the impugned order filed this petition for leave to appeal. This Court vide order dated 02.08.2016 issued notice to the respondent and the case is heard today.

2. Briefly, the facts of the case are that the respondent filed a declaratory suit in the Court of learned Civil Judge Hunza/Nagar against the petitioners. On 07.12.2004, during pendency of the said Civil Suit, the parties affected a compromise deed out of the Court. They submitted the same compromise deed is filed in the learned Trial Court. Consequently, the statements of the respective parties were recorded by the Court and the compromise decree was passed on 07.12.2004 accordingly. As per said compromise decree, the petitioners were declared the owners of the disputed immovable property alongwith the structure and machinery etc subject to payment of Rs. 96000/= to the petitioners within 6/7 months i.e. in the month of June or on 6th July 2005. It was also part of the decree that in case the petitioners failed to pay the amount within the stipulated time to the petitioners, the property in questions shall go into the ownership of the respondent. Later on, the respondent filed an Execution Petition No.07/2005 on 07.07.2005 contending therein that the petitioners failed to pay the decretal amount to him within the stipulated time as such he was entitled to get back the possession of the property in question as per compromise decree dated 07.12.2004. The petitioners pleaded that they presented the said amount to the respondent in the month of May, 2005 but the respondent refused to receive the same. Consequently, the petitioners approached the learned trial Court and deposited the amount in question on 17.08.2005. Upon hearing, the learned trial Court directed the Tehsildar to deliver the

possession of the property in question to the respondent vide order dated 28.09.2013. The petitioners being aggrieved filed CFA No. 68/2013 in the learned Court of District Judge Nagar which upon hearing was allowed vide Judgment dated 25.11.2014 by setting aside the order of the learned Executing Court which was made impugned before the learned Revisional Court by the respondent. Upon hearing, the learned Chief Court was pleased to allow the Revision Petition of the respondent, hence, this petition for leave to appeal.

3. The learned counsel for the petitioners submits that the amount was presented to the respondent in the month of May, 2005 in line with the compromise decree of the learned Trial Court but he refused to receive the same. Whereafter the petitioners deposited the said amount in the learned Executing Court on 17.08.2005 which is still lying in the Court. He submits that the learned Executing Court fell in error in accepting the executing petition of the respondent whereas the learned First Appellate Court has rightly allowed the objections of the petitioners but the same was set aside by the learned Chief Court through its impugned order which is not sustainable.

4. On the other hand, the learned counsels for the respondents support the impugned order dated 18.04.2016 in Civil Revision No. 103/2014 passed by the learned Chief Court being well reasoned and well founded. They pray that that said impugned

order passed by the learned Chief Court may graciously be maintained.

5. We have heard the learned counsels for the respective parties at length, perused the material on record and gone through the impugned order dated 18.04.2016 in Civil Revision No. 103/2014 passed by the learned Chief Court as well as the Orders/Judgments of the Courts below. The perusal of the record of the case transpires that the bone of contention between the respective parties was the payment of the decretal amount of Rs. 96000/- within stipulated time i.e. on or before the 07.07.2005 as the decree was passed on 07.12.2004. The petitioners failed to pay the amount in question to the respondent within the prescribed time. Admittedly the petitioners deposited the said amount in the Court on 17.08.2005 after delay of one month ten (10) days & after filing of the Execution Petition on 07.07.2005. The petitioner has failed to make out case in his favour. The learned Chief Court has rightly accepted the Revision Petition of the respondent which in our considered view is sustainable. Furthermore, the learned counsel for the petitioners failed to point out any illegality and infirmity in the impugned order passed by the learned Chief Court, hence, no interference is warranted into it by this Court.

6. In view of the above discussions, we convert this petition into an appeal and the same is dismissed. Consequently, the impugned order dated 18.04.2016 in Civil Revision No. 103/2014 passed by the learned Chief Court is affirmed.

7. The appeal is dismissed in above terms.

Chief Judge.

Judge.