

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN AT
SKARDU REGISTRY.**

Before:

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

**Civil Appeal. No 16/2016
in
CPLA. No. 08/2015.**

1. Farman Ali son of Ghulam Muhammad & 04 others
Petitioners.

Versus

1. Muhammad Yaseen son of Ghulam Mehdi r/o Mouza Kharko
Mandik Tehsil Daghoni District Ghanche. **Respondent.**

PRESENT:-

1. Mr. Muhammad Iqbal Advocate alongwith Mr. Ali Khan Advocate-on-Record for the petitioners.
2. Mr. Muhammad Issa senior Advocate on behalf of the respondent.

DATE OF HEARING:- 16.11.2016.

DATE OF DETAIL JUDGMENT:- 28.12.2016

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This petition has arisen out of the impugned order dated 01.04.2015 in Civil Revision No. 01/2013 passed by the learned Gilgit-Baltistan Chief Court whereby the said Civil Revision filed by the petitioners was dismissed by maintaining the concurrent findings of the learned courts below, hence, this petition for leave to appeal. This court vide order dated 29.03.2016 granted leave to appeal and the case was finally heard on 16.11.2016.

2. Briefly facts of the case are that the respondent/plaintiff filed a Civil Suit No. 28/2007 against the petitioners/defendants for

seeking declaration and possession regarding his share of maternal properties measuring 08 Kanal under Khiwat No. 85 alongwith trees and house situated at Mouza Kharko District Ghanche including 09 Kanal 05 Marlas cultivated land and 19 Kanal 17 Marlas uncultivated land under Khewat No.87. According to the averment the petitioners/defendants contested the suit with the plea that Mst. Bibi mother of the respondent/plaintiff had already gifted out her Shari share in favour of the deceased Ghulam Muhammad father of the petitioners No. 01 to 03 vide Gift Deed dated 01.05.1984 under Mutation No. 4242. As per the plaint, the mother of the plaintiff namely Mst. Bibi was sister of Ghulam Muhammad son of Husain, who was the father of defendant No. 01 to 03. Both Mst. Bibi and Ghulam Muhammad expired in the year 1986 and 1992 respectively. In the year 2002 Mst. Fatima daughter of Hussain received her shari share from the defendants. Whereafter the plaintiff/respondent also demanded for the maternal Shari share from the petitioner/defendants. Subsequently they denied to give them their due share. Resultantly the respondent constrained to file Civil Suit No.28/2007 for Declaration, Possession and Cancellation of the gift deed dated 01.05.1984. The learned Trial Court after hearing both the parties and examining the evidence on record decreed the suit in favour of the respondent/plaintiff vide judgment/decree dated 25.05.2012. The petitioners feeling aggrieved filed Civil First Appeal No. 14/2012 before the learned District Judge Ghanche which upon hearing was partly accepted

vide judgment dated 21.12.2012. The petitioners being aggrieved by and dissatisfied with filed Civil Revision No. 01/2013 before the learned Gilgit-Baltistan Chief Court which upon hearing was dismissed vide impugned order dated 01.04.2015, hence this petition for leave to appeal. We after hearing the respective parties dismissed the appeal by maintaining the concurrent findings of the learned courts below vide our short order dated 16.11.2016.

3. The learned counsel for the petitioners submits that the petitioners and the respondent are the lineal descendants of one Hussain son of Muhammad. He also submits that the “Doctrine of Estoppel” is involved in this case as a gift deed was affected in the year 1984 and the plaintiff/respondent filed the suit after a delay of approximately 20 years. He further submits that the learned courts below have failed to apply their judicial minds in appreciating the evidence so produced by the petitioner/defendant and wrongly decreed the suit in favour of the respondents which according to the learned counsel for the petitioners are not sustainable. He prays that the impugned order dated 01.04.2015 passed by the learned Gilgit-Baltistan Chief Court as well as the concurrent findings of the learned Courts below may graciously be set aside.

4. On the other hand, the learned counsel for the respondent supports the impugned order dated 01.04.2015 in Civil Revision No. 01/2013 passed by the learned Gilgit-Baltistan Chief Court. He contends that the same has been passed in accordance

with law and facts of the case, hence, the said impugned order may graciously be maintained being well reasoned and well founded.

5. We have heard the learned counsels for the respective parties at length, perused the record of the case file and gone through the impugned order dated 01.04.2015 in Civil Revision No. 01/2013 passed by the learned Gilgit-Baltistan Chief Court as well as the concurrent findings of the courts below. The learned counsel for the petitioners could not point out any illegality and infirmity in the impugned order passed by the learned Gilgit-Baltistan Chief Court. In our considered view no interference is warranted into it.

6. In view of the above discussions, we dismissed this appeal vide short order dated 16.11.2016. Consequent thereto, the impugned order dated 01.04.2015 in Civil Revision No. 01/2013 passed by the learned Gilgit-Baltistan Chief Court as well as judgment dated 21.11.2012 in Civil First Appeal No. 14/2014 passed by the learned District & Sessions Judge Ghanche and judgment dated 25.05.2012 in Civil Suit No. 28/2007 passed by the learned Civil Judge 1st Class Khaplu were maintained. These were the reasons of our short order dated 16.11.2016.

7. The appeal is dismissed in above terms.

Chief Judge.

Judge.

Whether the case is fit to be reported or not?