

**IN THE SUPREME APPELLATE COURT GILGIT- BALTISTAN
BALTISTAN.
C.P.L.A NO.32/2015.**

Before:-

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

K-2 Tours through Arshaf Ali Huissaini, Managing Director r/o Hussaini Chowk Skardu.

Petitioners

Versus

1. Provincial government through Chief Secretary Gilgit-Baltistan.
2. Deputy Commissioner/District Administration Skardu.
3. Assistant Commissioner/Administration Municipal Committee / Chairman Municipal Magistrate Skardu.
4. Traffic Magistrate Skardu.
5. Senior Superintendent of Police Skardu.

Respondents

CIVIL PETITION FOR LEAVE TO APPEAL AGAINST THE JUDGMENT/ DECREE DATED 19-11-2014 PASSED BY THE LEARNED SINGLE JUDGE GILGIT-BALTISTAN CHIEF CAMP SKARDU WHEREBY CIVIL REVISION NO. 08/2011 WAS DISMISSED WITHOUT ANY COGENT REASONS.

BY SETTING ASIDE THE IMPUGNED JUDGMENT DATED 17-11-2014 PASSED BY GILGIT-BALTISTAN CHIEF COURT CAMP AT SKARDU, IMPUGNED JUDGMENT / DECREE DATED 20-6-2011, AND IMPUGNED JUDGMENT DATED 13-04-2011 PASSED BY CIVIL JUDGE 1ST CLASS SKARDU IN CIVIL SUIT NO. 19/2011 PETITIONER MAY KINDLY BE GRANTED TEMPORARY INJUNCTION AS PRAYED FOR, TO MEET THE ENDS OF JUSTICE.

Present:

1. Mr. Amjad Hussain Advocate for the petitioner.

DATE OF HEARING:-21-05-2015

JUDGMENT:-

Mr. Justice Muzaffar Ali, J..... This petition for leave to appeal has been directed against the Order dated 17-11-2014 passed by the learned single Bench of the Chief Court Gilgit- Baltistan. The impugned order in fact is in agreement with the concurrent findings of the learned lower courts, the trial court as well as the 1st appellate court concerned respectively.

The brief facts wrapped with the petition are as such that the present petitioners filed suit No. 19/2011 before the court of learned Civil judge skardu for “ **declaration cum perpetual injunction**” with the contention that the petitioners have constructed a class-D stand after getting license from the competent authority and carrying their business of transport there-from since long. The plaintiffs further contended in the plaint that, recently the defendants are creating hindrances into and verbally prevent the plaintiff from use of the stand for their vehicles and directing the plaintiffs company to shift its business to the Bus stand constructed by the defendant outside the Municipal limits of the city.

The petitioner/ plaintiff filed an application under **Order 39 Rule 2&3 C.P.C** for getting a temporary injunction against the respondents/defendants to restrain them from dislodging the petitioner/ plaintiff from the Bus stand constructed by the plaintiff and carried

business. The learned trial court initially granted ad-interim injunction against the respondents/defendants but vacated the same after hearing the parties. The petitioner/plaintiff assailed the vacation order in 1st appeal before the 1st court of appeal. The 1st appellate court also refused to grant temporary injunction. The petitioner feeling aggrieved with the orders of the learned lower courts, challenged the orders before the learned Chief court Gilgit-Baltistan in revision, a learned single judge of the Chief court concurred with the learned Courts below. Hence the concurrent findings of all three courts below are in question before us through the instant petition.

We heard the learned counsel for the petitioner at a length. The learned counsel urged that, the petitioners have length. The learned counsel urged that, the petitioners have spent huge amount in construction of the D-Class Bus stand and carrying transport business there-from and if the respondents/defendants are allowed to disturb the petitioner from the running business, the petitioner may suffer an argued that, the petitioner has right to run business of transport and the intervention of the respondents/ defendants amounts to interference against petitioner's fundamental rights.

We are disagreed with the points raised by the learned counsel for the petitioner. The points having devoid of substance for the reasons that, the respondents have not prevented the petitioner from

carrying their business of transport and indeed to run a business is fundamental right of a citizen but at same time, the administrative authorities are to look into the business to avoid administrative problems creative of the business. The petitioner runs a transport business likewise many others; as such the administration faces traffic problems with the passage of time and its open secret that our cities are heavily burdened with the quantum of traffic. The respondents have did nothing with the business of the petitioner but asked to shift its business to the bus stand constructed out said the Municipal Limits to control the traffic flow into the City.

The plaintiff is not only monopolist in the business of transport, there are many other also in this business and if every one is allowed to construct his own Bus Stand it will cause irreparable loss and sufferings to the citizen and administration could not control the traffic.

Therefore as a policy a bus stand, has been constructed by the administration for all transport companies to run their business there-from and the bus stand being constructed out side the Municipal limits, might be useful to curtail and control the traffic rush. Hence the counsel has failed to establish the principles (a) **Prima facie case** (b) **irreparable loss** and (c) **Balance of convenience** which require to be coexisting for grant of a temporary injunction.

Last but not the least, the application for grant of injunction require refusal **under section 56(d) of the Specific Relief Act** as such the courts below have rightly applied their judicial mind in refusing the remedy and the concurrent findings need not to be interfered so leave to appeal is refused to grant and the petition is dismissed.

Announced

21-05-2015

Acting Chief Judge

Judge