

IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN.
C.P.L.A NO.22/2009.

Before:- **Mr. Justice Muhammad Nawaz Abbasi, Chief Judge.**
Mr. Justice Muhammad Yaqoob, Judge.

1. Officer Commanding 182 Petroleum Storage Platoon Army Service Juglot Gilgit.
2. FCNA through Supply and Transport Branch Head Quarter FCNA Jutial Gilgit.

Petitioner/Defendants
Versus

1. Ali Muhammad s/o Mirza Ali r/o Sikanderabad Nagar.

- Respondent/Plaintiff**
2. Deputy Commissioner/Collector Gilgit.
 3. Assistant Commissioner/Assistant Collector 1st Grade/Recovery Magistrate Gilgit.

Proforma-Respondents.

APPLICATION FOR GRANT OF LEAVE TO APPEAL AGAINST THE JUDGMENT/DECREE DATED 25-5-2009, PASSED BY THE HON,BLE CHIEF COURT GILGIT, WEHREBY THE REVISION PETITION OF THE RESPONDENT NO.1 HAS BEEN ACCEPTED AND SETTING ASIDE THE JUDGMENT/DECREE DATED 20-5-2002, PASSED BY THE CIVIL JUDGE AND JUDGMENT /DECREE DATED 17-3-2007, PASSED BY DISTRICT JUDGE GILGIT.

Present: - Mr. Sharif Ahmed Advocate for petitioner.
Advocate General Gilgit-Baltistan.
Mr. Johar Ali Advocate for respondent.

Date of hearing: - 16-06-2010.

JUDGMENT:-

Mr. Justice Muhammad Yaqoob,J.....This petition for leave to appeal has been preferred by the petitioners/defendants against the impugned order dated 25-5-2009, passed by the learned Single Bench of Chief Court Gilgit-Baltistan, whereby the learned Single Bench has accepted the Revision petition filed by the respondent (Muhammad Ali s/o Mirza Ali) by setting aside the concurrent findings of lower Courts below and

also declared the proceedings before respondent No.2 & 3, as null & void. Hence this leave to appeal.

The background of the litigation as narrated by the parties are, that the respondents No.2 and 3 issued letter bearing No. 206(13)/516 dated 17-10-1994, No.J-28/4927/28/93 dated 20-10-1994, to plaintiff/respondent No.1 for recovery of Rs.1,18,997/- (one lac Eighteen thousand nine hundred ninety seven) as arrears of land revenue and to deposit the same in Government Treasury. Feeling aggrieved with the above quoted letters the plaintiff/respondent No.1 filed the present suit on the ground that the amount shown by the petitioner is not recoverable as arrears of land revenue, as the provincial Government of Northern Areas did not duly declared through notification the alleged dues as arrears of land revenue. He further narrated in the plaint that the executive orders for recovery of dues issued by respondent No.2 and 3 are without jurisdiction. It has been further mentioned in the plaint that plaintiff/respondent No.1 is being harassed by respondent No.3 on the instance of other defendants. Present petitioners and respondents No.2 and 3 are without justification and lawful authority bent upon forcibly extracting Rs.1,18997/- (One Lac Eighteen thousand nine hundred ninety seven) from plaintiff/respondent No.1. He further prayed for declaration with permanent injunction to the effect that the respondent No.2 and 3 are not entitled to recover any amount from respondent No.1, therefore be permanently restrained from demanding the suit amount.

On the other hand the petitioners/defendants strongly contested the suit and denied the claim of the plaintiff with the submission that the plaintiff/respondent No.1 is a Government Contractor, enter into a

contract with the present petitioners, as per requirements of the contract agreement, he is liable to make good the losses sustained by the Government. In fact plaintiff has failed to account for the material and after inquiry under the terms of agreement loss statement of Rs.1,18,997/- (One Lac Eighteen thousand nine hundred ninety seven) has been raised against the plaintiff/respondent No.1. Respondent No.2 and 3 are empowered to recover the dues as arrears of land revenue. Plaintiff has no cause of action, therefore, the suit being merit less and non maintainable.

In the light of the pleadings of the parties the trial court framed few issues without applying its mind towards the main and core issues involved in the present case. However, the trial court has provided fair opportunity to adduce evidence to the plaintiff in proof of his claim, while the learned trial court proceeded ex-parte against defendants vide order dated 5-12-2001. Plaintiff /respondent No.1 did not produce oral evidence and relied on documentary evidence vide Exh-P/1 to Exh-P/4. That on 20-05-2002 the learned civil judge dismissed the suit of respondent No.1/plaintiff, by declaring it as merit less and non maintainable. Whereas, on 17-03-2007 the learned district judge maintained the judgment/decrees of the learned Civil Judge first Class Gilgit dated 20-05-2002.

Feeling aggrieved and dissatisfied from the judgment of both the learned lower courts the respondent No.1 filed a revision petition before honorable Chief Court Gilgit-Baltistan, whereby the learned Single Bench of the Chief Court Gilgit-Baltistan, accepted the revision petition filed by respondent No.1/plaintiff and set aside the concurrent findings of the lower Courts by declaring the recovery proceedings as

null & void initiated by respondent No.2 and 3. Hence, this leave to appeal.

We have carefully attended the arguments of learned counsel for both side at length and have perused the available record with due care and caution, we found that the learned Single Bench of Chief Court has failed to exercise its jurisdiction so vested in it on the following grounds :-

Both the learned lower courts including the Single Bench of Chief Court Gilgit-Baltistan have failed to apply its mind towards framing of important and necessary issues regarding the jurisdiction exercised by respondent No.2 & 3. In law those findings of the courts which are given without framing issues have no legal sanctity at all. The same pattern has been applied in the present case. Resultantly, findings of the lower courts below shall not intact on the filed. However, it is an admitted fact that the learned Single Bench of Chief Court Gilgit-Baltistan, has well interpreted the relevant laws but its all efforts may not be considered legally without framing of core issues i.e. “whether the (Deputy Commissioner) respondent No.2, is legally empowered to recover the alleged amount of Rs.1,18997/- (One lac Eighteen thousand nine hundred ninety seven only) as arrears of land revenue?” Whereas the second most important and necessary issue is “whether the Government duly notified and declared the alleged dues, as arrears of land revenue?”. Likewise the third and core issue is “whether respondent No.2&3 can exercise its jurisdiction as recovery Magistrate?” These important and material questions should be solved in first round of litigation but unfortunately it has not been done so. It is undisputed that the Civil Courts under section 9 C.P.C enjoys ample of

jurisdiction to try suits, but it needs determination here that whether the instant case has been disposed of by using jurisdiction so vested or not . It gives us pain to observe, that learned counsel for both the parties did not properly assisted the courts below, therefore, all the orders , judgments impugned herein, are unfortunately perfunctory giving the impression of hasty off hand decisions, which are not only incorrect in their results but also deficient in their contents.

Litigants who bring their disputes to the law courts with incidental hardships and expenses involved, do expect a patent and judicious treatment of their cases and their determination by proper orders. A judicial order must be a speaking order shall manifest that the court has applied her mind to the resolution of the issues involved for their proper adjudication and the ultimate result may be arrived at by a laborious effort, but it has not been done in the instant case.

Although it is pertinent to mention here that in appeal able cases findings should be given after framing issues, even though it may be unnecessary to decide some for the purpose of the decision arrived at. But the learned lower courts below have failed to frame important and necessary issues regarding "jurisdiction" of respondent No.2&3. The universally recognized principle of law to frame issues and followed by judgment based on discussing each and every issue in detail but the learned lower Courts have violated the above narrated universally recognized principle of law.

Testing the entire proceedings of the case on the touch stone of procedural law the ultimate result would be that the entire exercise undertaken by the courts was without framing of necessary and important issues and mere abuse of process of law.

Consequent upon what has been discussed above, we have come to the conclusion that it is a fit case for remand, therefore, we set aside the impugned judgment/decree dated 25-5-2009, passed by the learned Single Bench of Chief Court Gilgit-Baltistan and the case is returned back to the trial court with the direction to decide the **“question of jurisdiction in the matter after framing of necessary issues.”**

The short order dated 16-6-2010, is reproduced herein is treated as part of this judgment.

“ For the reason to be recorded later the case is returned back to the Civil Court for framing of the issues relating to the jurisdiction of Deputy Commissioner and the decision afresh in accordance with law. This petition is converted into appeal and allowed in the above terms with no orders as to costs”.

Petition is converted into appeal and allowed.

**Announced
16-06-2010**

Chief Judge

Judge.

**The Hon'ble Registrar,
Supreme Appellate Court Gilgit-Baltistan**

Subject: - Request for provision of stationery items for P/S Branch

Respected Sir,

We have the honor to submit that the following stationary items are required for P/S branch. The same may kindly be provided enabling us to smooth running the office work and oblige.

S.No.	Name of Items	Quantity required.
1.	Computer paper Legal	2 Rim
2.	Gum Stick	2 Nos
3.	File board	1 dozen
4.	Ball points	1 dozen
5.	Ink black	2 Nos
6.	Pad	6 Nos
7.	High lighter	2 Nos
8.	File	1 dozen
9.	Paper Pin	1 packet
10.	paper clip	1 Packet
11.	Table calendar	2 Nos
12.	Thermos	1 No. Not approved
13.	Tag	1 packet
14.	Table Diary	2 Nos
15.	Punch machine	2 Nos
16.	Staple Pin	1 packet

**P.S. To Judge-I
S.A.C. Gilgit-Baltistan**

**P.S. to Judge-II
S.A.C. Gilgit-Baltistan**