

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

Before:

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

CPLA. No. 57/2015.

1. Mst. Sughra & 02 others **Petitioners.**

Versus

1. Hamid Hussain & 14 others. **Respondents.**

PRESENT:-

1. Mr. Muhammad Iqbal Advocate for the petitioners.
2. Mr. Basharat Ali Advocate on behalf of the respondents.

DATE OF HEARING:- 15.11.2016.

DATE OF DETAIL JUDGMENT:- 04.01.2017

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This petition has arisen out of the impugned judgment dated 20.04.2016 in Civil Misc. No. 220/2014 in CSA. No. 01/2015 passed by the learned Gilgit-Baltistan Chief Court whereby the Civil Misc. No. 220/2014 in CSA. No. 01/2015 of the respondents was dismissed by maintaining the judgments of the learned courts below, hence, this petition for leave to appeal.

2. Briefly the facts of the case are that the petitioners filed Civil Suit No. 75/2000 in the court of learned Civil Judge Skardu with the contentions that respondent No. 01 namely Khursheed son of Narullah Khan was adopted as son by her father Wazir Rustam Ali through “Adoption-Deed” dated 25th Chet 1990 Bikrimi and owner of all the moveable and immoveable properties. Her father

had also given her in marriage of the said respondent in tender age. After the death of her father, respondent No. 01 malafidely disposed of the property given to him by her father through sale transactions with others and thereby he also divorced her. In the year 1955 the petitioner filed a suit for the recovery of the said property in the learned senior Civil Court, Skardu which was adjudicated against her vide judgment dated 11.04.1955. The petitioners filed an appeal against the said judgment before the learned District Judge, Baltistan which was also met with the same fate vide judgment dated 25.06.1955. The petitioner namely Mst. Nargis instead of challenging the validity of the judgments passed by the learned two lower courts before higher forum, resorted to Shariah Arbitrators who after hearing the parties passed verdict in favour of the petitioner (Nargis). Consequently, the respondent No. 01 namely Khursheed returned some land to her bearing Khewat No. 260 and 263 situated as Mouza Goal. Later on she again brought the issue before Mahkama-e-Shari, Skardu for recovery of remaining land which was sold by the respondent No. 01 to rest of the respondents in the year 1957. She again succeeded in obtaining another Shari verdict but the contesting respondent No. 02 to 05 denied to acknowledge to the Shari verdict dated 17.07.2000. During the pendency of the case the petitioner (Nargis) died as such her legal heirs were impleaded in the instant case. The respondent No. 01 did not contest the suit and filed his admissional written statement on 17.05.2001 whereas the remaining respondents contested the suit

by filing their Para-wise written statements. In their Para-wise statements they alleged that the subject matter of the suit has been purchased by their predecessors in mid-fifties from respondent No. 01 who was the then owner of the suit property. The rest of the respondents pleaded that the suit of the petitioners is hopelessly barred by limitation and hit by law of Res-Judicata. The petitioners being aggrieved filed Civil Misc. No. 220/2014 in CSA. No. 01/2015 before the learned Gilgit-Baltistan Chief Court which upon hearing was dismissed by maintaining the judgments of the learned courts below vide impugned judgment dated 20.04.2016, hence, this petition for leave to appeal. This court vide order dated 05.10.2016 granted leave to appeal. Consequently, notices were issued to the respondents and the case was heard on 15.11.2016. We after hearing the respective parties dismissed the appeal by maintaining the concurrent findings of the learned three courts below vide our short order dated 15.11.2016.

3. The learned counsel for the petitioners submits that although there are three concurrent findings of the learned courts below in favour of the respondents, however, the question of law raised in the learned trial Court Skardu, has not been heard and decided in accordance with the parameters laid down by the superior courts. He also submits that the judgments/decrees were obtained by the respondents through fraud and misrepresentation. He further submits that the respondent No. 14 after marrying with the mother of the petitioner maneuvered the documents of her

property fraudulently in his name and later on he sold it out the said properties. Whereafter he divorced the mother of the petitioner. He finally submits that the learned courts below fell in error while deciding the case of the petitioners. The petitioners being aggrieved filed Petition under Section 12 (2) CPC but the same was also dismissed by the learned Gilgit-Baltistan Chief Court vide impugned judgment dated 20.04.2016. He prays that the impugned judgment dated 20.04.2016 passed by the learned Gilgit-Baltistan Chief Court as well as the judgments of the learned courts below are not tenable and liable to be set aside.

4. On the other hand the learned counsel appearing on behalf of the respondents supports the impugned judgment dated 20.04.2016 in Civil Misc. No. 220/2014 in CSA. No.01/2015 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 judgment 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 judgment dated 20.04.2016 in Civil Misc. No. 220/2014 in CSA. No.01/2015 passed by the learned Gilgit-Baltistan Chief Court as well as the concurrent findings of the courts below. Furthermore, the learned counsel for the petitioners could not point out any illegality and infirmity in the impugned

judgment dated 20.04.2016 passed by the learned Gilgit-Baltistan Chief Court.

6. In view of the above discussions, we dismissed this appeal vide short order dated 15.11.2016. Consequently, the impugned judgment dated 20.04.2016 in Civil Misc. No. 220/2014 in CSA. No. 01/2015 passed by the learned Gilgit-Baltistan Chief Court as well as the judgment dated 14.12.2007 in Civil First Appeal. No. 36/2006 passed by the learned District Judge Skardu and the judgment dated 05.10.2016 in Civil Suit No. 75/2000 passed by the learned Civil Judge 1st Class Skardu were maintained. These were the reasons for our short order dated 15.11.2016.

7. The appeal is dismissed in above terms.

Chief Judge.

Judge.

Whether the case is fit to be reported or not?