

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

Mr. Justice Ijaz ul Ahsan  
Mrs. Justice Ayesha A. Malik  
Mr. Justice Syed Hasan Azhar Rizvi

(AFR)  
**Civil Appeal No.17-Q and Civil Petition No.257-Q of 2023**  
*(Against the judgment dated 20.06.2023 of the High Court of Balochistan, Sibi Bench  
passed in Civil Revisions No.85 and 86 of 2021)*  
and CMA . 230-Q/2023.

Noorullah and others

**...Petitioners**  
(in both cases)

**VERSUS**

Ghulam Murtaza and others

**...Respondents**  
(in both cases)

\* \* \* \* \*

For the Appellant/Petitioner(s):  
(in both cases)

Mr. Jahan Zeb Khan Jadoon,  
ASC

For Respondents(1-5):  
(in both cases)

Mr. Abdul Sattar Kakar, ASC

For the department:

Muhammad Zareef,  
Naib Tehsildar  
Shaukat Ali, Patwari

Date of hearing:

10.11.2023.

**JUDGMENT**

**Syed Hasan Azhar Rizvi, J.-** Through these cases  
(C.A. No.17-Q of 2023 and C.P. No.257-Q of 2023, filed under Articles 185(2)(d) and  
185(3) of the Constitution of the Islamic Republic of Pakistan, 1973, respectively)  
having akin questions of law and facts, the appellants/  
petitioners have assailed the judgment dated 20.06.2023 passed  
by the High Court of Balochistan, Sibi Bench, whereby revision

petitions filed by the respondents were decided in the following terms:-

*"For afore discussion, the instant Civil Revision Petition No.85/2021 is partly allowed. The impugned judgment and decree dated 22 December, 2018 passed by the Trial Court and impugned judgment and decree dated 31 August, 2021 passed by the Appellate Court are set aside. Suit Nos.117/2015 and 34/2016 instituted by the petitioners are partly decreed. Petitioners are declared as owners of the suit land bearing survey Nos. 269, 270 and 271 measuring 48 acres 0- Rod 0-Pole. Respondents Nos.5, 6 and 7 are directed to handover possession of the decreed land to the petitioners. Mutation No.308(Ex:P/4) and contract of sale dated 27 June, 2000 (Ex:D-9) are declared void and after handing over possession of the suit land/decreed land to the petitioners, respondents are perpetually restrained from any kind of interference. Petitioners' suit No.117/2015 to the extent of suit land bearing survey Nos. min 272 and 273 is dismissed and to the extent of suit land bearing survey Nos. min 272 and 273, the impugned judgment and decree passed by the Courts below in Civil Suit No.90/2016 instituted by the respondents are upheld."*

2. Tersely, facts of the case are that on 19.10.2015 and 02.03.2016, the respondents filed Civil Suits No.117/2015 (for declaration, possession and correction of entries in the revenue record and perpetual injunction) and 34/2016 (for declaration, cancelation of instrument and perpetual injunction) against the appellants/petitioners, whereas on 17.06.2016, the appellants/petitioners filed Civil Suit No.90/2016 (for declaration and perpetual injunction) against the respondents, which were consolidated by the trial Court. After framing of issues and recording of the evidence, Suits No.117/2015 and 34/2016 were dismissed, whereas Suit No.90/2016 was decreed

by the trial Court through a consolidated judgment dated 22.12.2018.

3. Being aggrieved with the said judgment, both the parties filed appeals before the District Judge, Jaffarabad, which met the fate of dismissal *vide* judgment dated 31.08.2021. Such decision, when assailed by the respondents before the High Court by filing civil revisions, the same have been decided in the terms mentioned above *vide* judgment dated 20.06.2023, impugned herein.

4. Learned counsel for the appellants/petitioners states that the High Court has not appreciated the facts so also the law in its true perspective; that the impugned judgment has been passed without application of judicious mind; that the impugned judgment is suffering from misreading and non-reading of material evidence available on the record; that the respondents have no *locus standi* to claim the ownership of the suit land falling in khasra Nos.269, 270 and 271 and that the impugned judgment is not tenable in the eyes of law.

5. Conversely, learned counsel representing the respondents has faithfully defended the impugned judgment.

6. We have given anxious consideration to the contentions raised by learned counsel for the parties and scanned the material available on the record with their able assistance.

7. The appellants/petitioners claimed that the land in question falling in khasra Nos.269, 270 and 271 was purchased

by them from respondents on 02.09.1986 against a sale consideration of Rs.2,45,000/- and since the respondents were reluctant to transfer the same, thus a contract of sale was executed on 27.06.2000 *vide* mutation No.308 dated 11.08.2000.

The respondent (*Ghulam Murtaza*), while recording his statement on 11.02.2017 before the trial Court has mentioned his age as 45 years, which indicates that at the time of purchase of land in 1986, he was fourteen years of age. Similarly, respondent (*Nasreen*) was also a minor in 1986, therefore alleged sale of the land in question in this behalf is also *void*. For ease of reference, Section 11 of the Contract Act, 1872 reads as under:-

*"Every person is competent to contract who is of the age of majority according to the law to which he is subject and who is of sound mind, and is not disqualified from contracting by any law to which he is subject."*

It is obvious that a minor is incompetent to enter into a legal sale contract of his property, hence the sale transactions made were *void*. In 1986, the actual owner of the suit land was predecessor-in-interest of the respondents, namely, Ahmed Khan, but neither any documentary proof of such sale was adduced in the evidence nor any witness of the sale transaction was produced during the case proceedings, thus how could the appellants/petitioners purchase the suit land from the respondents in the afore-noted year.

8. It transpired from the record that the alleged sale was made in 1986 when the respondents, Ghulam Murtaza and Ghulam Mustafa, were minors. The appellants/petitioners have



badly failed to prove execution of mutation No.308 by summoning two attesting witnesses i.e. Assistant Collector and the *Patwari* as per Qanoon-e-Shahadat Order, 1984. See Abdul Rasheed through L.Rs. and others versus Manzoor Ahmed and others (PLD 2007 SC 287) and Muhammad Muneer versus Mst. Feezan (PLD 2021 SC 538).

9. We are of the candid view that the impugned judgment passed by the High Court has taken note of all aspects of the matter, either legal or factual, and the inference drawn is duly supported not only by the law but also by the record. The impugned judgment is well within the remit of law and based on sound/cogent reasoning. Learned counsel for the appellants/petitioners has failed to point out any infirmity or illegality so also misreading and non-reading of evidence on the record which could persuade us to interfere in the impugned judgment.

10. For what has been discussed above, these cases being meritless are dismissed. No order as to costs.

**Islamabad, the**

10<sup>th</sup> November, 2023

Not Approved for reporting

Ghulam Raza/