***BEFORE THE HON’BLE PESHAWAR HIGH COURT MINGORA BENCH/DARUL QAZA***

*C.R No.\_\_\_\_\_\_\_\_\_\_\_\_\_\_of 2011*

*Abdul Ghafar S/o Bahadar R/o Sijbanrr, Tehsil Matta, District Swat …………………………….………….………..…. Petitioner.*

***VERSUS***

*Abdul Jabbar S/o Abdul Akbar Khan R/o Sijbanrr, Tehsil Matta, District Swat ………………………………….….....* ***Respondent****.*

***Revision Petition under S.115 of CPC against the Judgment/Decree of learned Additional District Judge/Izafi Zilla Qazi, Matta, dated 16/07/2011, vide which, the appeal of the petitioner was dismissed and the Judgment/Decree of learned Trial Court dated 26/01/2011 was maintained.***

***Prayer:***

***By accepting this revision petition the judgments/decrees of both the learned courts below may graciously be set aside and the suit of the respondent may kindly be dismissed****.*

*Respectfully Sheweth:*

***FACTS:***

1. *That the respondent filed a suit for possession of the suit property mentioned in the plaint. (Copy of the Plaint is Annexure “A”).*
2. *That the petitioner contested the suit of the respondent on various legal and factual grounds by submitting his written statement. (Copy is Annexure “B”).*

*3. That the les was adjudicated upon the issues reflected in Annexure “C”.*

*4. That PW1 Halqa Patwari examined as PW1 (Ann: “D”) who produced Jamabandis for the year 1992-93 (Ann: “D1”), for the year 2001-02 (Ann:”D2”) and Copy of mutation (Ann: “D3”). Abdul Hadi was examined as PW2 (Ann: “E”), who produced judgment & decree of the learned Additional District Judge/Izafi Zila Qazi, Matta dated 21/06/2004. (Copy is Ann: “F”).*

*5. That Petitioner was examined as DW1 vide   
Ann: ”G”, Khachan DW2 (Ann: ”H”),   
Assad Ullah DW3 (Ann: “I”). Petitioner produced sale deed (Ann: “J”).*

*6. That suit of the respondent was decreed by the learned trial court vide Judgment/decree dated 26/02/2011. (Copy is Ann: “K”).*

*7. That aggrieved by the above said judgment/decree of the trial court, the petitioner preferred an Appeal. (Copy of memo of Appeal is Ann: “L”).*

*9. That the Appeal of the petitioner was dismissed by the learned Additional District Judge/Izafi Zilla Qazi Matta on 16/07/2011. (Copy is Annexure “M”)*

*10. That aggrieved by the above said judgments/ decrees of the learned courts below, the petitioner requests for the indulgence of this Hon’ble court in exercise of its revisional jurisdiction on the following grounds inter alia:*

***GROUNDS:***

*(a) That the learned courts below have failed to consider the evidence produced by the petitioner and much less evidence that was read was misinterpreted and misconstrued.*

*(b) That the two courts below have committed illegalities and material irregularities which have led to the miscarriage of justice.*

*(c) That the learned courts below have failed to appraise the evidence of the petitioner in its true prospective.*

*(d) That in case if the matter was decided earlier as held by the two courts below, then the suit filed by the respondent was not competent under the law and was hit by the principal of resjudicata.*

*(e) That the two courts below have failed to apply the correct statutory provisions to the question of limitation involved in this litigation. In that the suit of the respondent was badly time barred.*

*(f) That other grounds shall be advanced with the permission of the court at the time of arguments.*

*It is therefore most humbly prayed that by accepting this revision petition the Judgment/Decrees of the learned courts below may graciously be set aside and the suit of the respondent may kindly be dismissed or any other order this Hon’ble court may deem just and proper may graciously be passed in favour of the petitioner.*

*Petitioner*

*Through counsel*

***AMIR GULAB KHAN***

*Advocate High Court*

*Office: D-20,21 Continental Plaza,*

*Makan Bagh, Mingora, Swat.*

*Cell No: 03469514460*

***KHWAJA SALAHUDDIN***

*Advocate High Court*

*Office: C-19,20 Continental Plaza,*

*Makan Bagh, Mingora, Swat.*

*Cell No: 03459457002*

***CERTIFICATE****:*

*As per instructions of the client, this is the first Revision petition before this Honourable Court on the subject, and notice of the petition has been given to the respondents.*

***AMIR GULAB KHAN***

*ADVOCATE HIGH COURT*

***BEFORE THE HON’BLE PESHAWAR HIGH COURT MINGORA BENCH/DARUL QAZA.***

*C.R No.\_\_\_\_\_\_\_\_\_\_\_\_\_\_of 2011*

*Abdul Ghafar …………………….……… Petitioner.*

*VS*

*Abdul Jabbar …………………….…….. Respondent.*

***MEMO OF ADDRESSES***

***Petitioners address****:*

*Abdul Ghafar S/o Bahadar R/o Village Sijbanrr, Tehsil Matta, District Swat.*

*N.I.C # Cell: .*

***Respondents addresses****:*

*Abdul Jabbar S/o Abdul Akbar Khan R/o Village Sijbanrr, Tehsil Matta, District Swat.*

*Petitioner*

*Through counsel*

|  |  |
| --- | --- |
| ***KHWAJA SALAHUDDIN***  *Advocate High Court*  *Office: C-19,20 Continental Plaza,*  *Makan Bagh, Mingora, Swat.*  *Phone No: 03459457002* | ***AMIR GULAB KHAN***  *Advocate High Court*  *Office: D-20,21 Continental Plaza,*  *Makan Bagh, Mingora, Swat.*  *Phone No: 03469514460* |

***BEFORE THE HON’BLE PESHAWAR HIGH COURT MINGORA BENCH/DARUL QAZA.***

*C. R No.\_\_\_\_\_\_\_\_\_\_ of 2011.*

*Abdul Ghafar …………………….……… Petitioner.*

*VS*

*Abdul Jabbar …………………….…….. Respondent.*

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|  | *Wakalatnama.* |  |  |

*Petitioners through counsel*

|  |  |
| --- | --- |
| ***KHWAJA SALAHUDDIN***  *Advocate High Court*  *Office: C-19,20 Continental Plaza,*  *Makan Bagh, Mingora, Swat.*  *Phone No: 03459457002* | ***AMIR GULAB KHAN***  *Advocate High Court*  *Office: D-20,21 Continental Plaza,*  *Makan Bagh, Mingora, Swat.*  *Phone No: 03469514460* |

***OPNING SHEET FOR CIVIL REVISION***

*BEFFORE THE HON’BLE PESHAWAR HIGH COURT, PESHAWAR.*

*(JUDICIAL DEPARTMENT)*

*Civil Revision No.\_\_\_\_\_\_\_\_\_ of 2011.*

|  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| *Original Suit* | | | | *First Appeal* | | | | *Date of filing petition in the High Court.* | *Value for purpose of Jurisdiction* | *Value for purpose of Court Fee.* | *Amount of Court Fee on petition* |
| *Institution* | | *Decided* | | *Institution* | | *Decided* | |
| *Court* | *Date* | *Court* | *Date* | *Court* | *Date* | *Court* | *Date* |
| *Civil Judge/Illaqa Qazi-I, Matta,*  *District Swat* | *22/02/2007* | *Civil Judge/Illaqa Qazi-V, Matta,*  *District Swat* | *26/01/2011* | *Addl: District Judge/*  *Izafi Zila Qazi, Matta, Swat.* | *21/02/2011* | *Addl: District Judge/*  *Izafi Zila Qazi, Matta, Swat.* | *16/07/2011* | *15/08/2011* | *Rs.200/-* | *Rs.200/-* | *Rs.15/-* |

|  |  |
| --- | --- |
| ***Presented by:*** | *Amir Gulab Khan & Khwaja Salahuddin Advocates.* |
| ***Petitioner/defendant:*** | *Abdul Ghafar …………..…….…….... Petitioner.* |
| ***Respondent/Plaintiff:*** | *Abdul Jabbar Khan ……….……….….. Respondent.* |
| ***Order of First Court & Date:*** | *Suit of the respondent was decreed vide judgment & decree dated 26/01/2011 by the learned Civil Judge/Illaqa Qazi-V Swat..* |
| ***Appellate Court order & date:*** | *Appeal of the petitioner/defendant was also dismissed vide judgment & decree dated 16/07/2011 by the learned Additional District Judge/Izafi Zila Qazi Matta, District Swat and maintained the judgment & decree dt 26/01/2011 of the learned trial court.* |
| ***Confirming, Reversing or Modifying:*** | *Confirmed.* |
| ***Original claim as given in the plaint:*** | *Suit for possession of the suit land.* |
| ***Claim in Revision:*** | *By accepting this revision petition, the judgments/decrees of both the learned courts below may graciously be set aside and the suit of the respondent may kindly be dismissed.* |

*Revision U/S 115 Civil Procedure Code, 1908.*

***Petitioner******through counsel***

*(****KHWAJA SALAHUDDIN****) (****AMIR GULAB KHAN****)*

***ADVOCATE HIGH COURT******ADVOCATE HIGH COURT****.*

*CHECK LIST*

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | *Case Title:* | ***Abdul Ghafar …Vs … Abdul Jabbar Khan*** | | |
|  | *Petition is duly signed.* | | *Yes* | *No* |
|  | *The law under which the Petition preferred has been mentioned.* | | *√* |  |
|  | *Approved file cover is used.* | | *√* |  |
|  | *Affidavit is duly attested and appended.* | |  |  |
|  | *Case and Annexures are properly paged and numbered according to index.* | | *√* |  |
|  | *Copies of Annexures are legible and attested. (if not, then better copies duly attested have been annexed).* | | *√* |  |
|  | *Certified copies of all the requisite documents have been filed.* | | *√* |  |
|  | *Certificate specifying that no case on similar grounds was earlier submitted in this court, filed.* | | *√* |  |
|  | *Case within time.* | | *√* |  |
|  | *The value for the purpose of Court fee and jurisdiction has been mentioned in the relevant column.* | | *√* |  |
|  | *Court fee in shape of Stamp Paper is affixed, (For Writ Rs.500/-. For other required).* | | *√* |  |
|  | *Power of Attorney is in proper form.* | | *√* |  |
|  | *Memo of addressed filed.* | | *√* |  |
|  | *List of Book mentioned in the Petition.* | |  |  |
|  | *The requisite number of spare copies attached. (Writ Petition-3, Nos Civil Appeal (SB-1, SB-2) Civil Revision (SB-1, SD-2).* | | *√* |  |
|  | *Case (Revision/Appeal/Petition etc) is filed on the prescribed form* | | *√* |  |
|  | *Power of Attorney is attached by Jail Authority (for Jail Prisoners only).* | |  |  |

*It is certified that formalities/documentation as required in column 2 to 18 above,*

*have been fulfilled.*

*Name:* ***Amir Gulab Khan and Khwaja Salahuddin***

***ADVOCATES HIGH COURT.***

*Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_*

*Dated:* ***16/08/2011****.*

***FOR OFFICE USE ONLY***

*Case No.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

*Case received \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

*Complete in all respect: Yes/No (if No the grounds) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

*Dated in Court \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

*Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

*(Reader)*

*Dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

*Countersigned: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

*(Deputy Registrar)*