

JUDGMENT SHEET  
**IN THE GILGIT BALTISTAN CHIEF COURT,**  
**GILGIT**

JUDICIAL DEPARTMENT

Before:

Justice Ali Baig

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**C. Rev. No.76/2018**

1. Secretary Federal Board of Intermediate and Secondary Education, H-8/4 Islamabad.
2. Incharge Sb-Office Federal Board of Intermediate and Secondary Education, Gilgit.

Petitioners.

**VERSUS**

Suriya Bano daughter of Abdullah Baig, resident of Machokall  
 Dnayore District Gilgit.

Respondent.

CIVIL REVISION PETITION UNDER SECTION 115 AGAINST  
 THE IMPUGNED JUDGMENT/DECREE DATED 24-04-2018  
 PASSED BY LEARNED ADDITIONAL DISTRICT JUDGE GILGIT  
 IN CFA NO.129/2017, WHEREBY THE LEARNED  
 ADDITIONAL DISTRICT JUDGE GILGIT HAS UPHELD THE  
 JUDGMENT/DECREE PASSED BY CIVIL JUDGE DANYORE IN  
 CIVIL SUIT NO. 210/2016.

FOR SETTING ASIDE BOTHE THE IMPUGNED  
 JUDGMENT/DECREE PASSED BY LEARNED LOWER COURTS  
 AND SUIT OF RESPONDENT MAY KINDLY BE DISMISSED TO  
 MEET THE ENDS OF JUSTICE, LAW AND EQUITY.

Present:- Mr. Manzoor Hussain Advocate, for Petitioners.  
 Mr. Faqir Shakir Advocate, for the respondents.

Date of hearing: -

20-02-2019

Date of pronouncement of Judgment:-

23-02-2019

**JUDGMENT**

Justice Ali Baig ---J- -Through this civil revision petition,  
 the petitioners have called in question the judgment/decree  
 dated 24-04-2018 passed by the learned Additional District

Judge Gilgit whereby the learned 1st Appellate Court has dismissed the Civil First Appeal of the present petitioners/defendants by upholding the judgment/decreed dated 02-11-2017 passed by the learned Civil Judge 1<sup>ST</sup> Class Danyore Gilgit.

2. Briefly facts necessary for disposal of this Civil Revision petition are that the respondent/plaintiff namely Suriya Bano daughter of Abdullah Baig resident of Danyore Gilgit instituted a suit for declaration against the present petitioners/defendants in the trial court claiming that as per School, record, CNIC and service book the true date of birth of the plaintiff/respondent is 05-02-1976 but the petitioners/defendants have disclosed date of birth of present respondent/plaintiff in her matriculation certificate as 30-02-1974 which is wrong, against the facts and unnatural, therefore, the date of birth of the plaintiff/respondent is required to be corrected in accordance with School record, CNIC and service book.

3. The present petitioners being defendants in suit contested the suit by way of filing their joint written statement in the trial Court wherein they have raised certain legal and factual grounds/objections. Out of divergent pleadings of parties the learned trial Court has framed the following issues:-



- ۱۔ کیا عدیدہ کو بنا دہ گونی حاصل ہے؟ OPP
- ۲۔ کیا عدیدہ کی تصحیح تاریخ پیدائش تحت پرائیڈ شافٹی کارڈ، پرائیڈ فارم ب، فیملی رجسٹریشن و پورٹھمر ٹھیکٹ و پرائیڈ شافٹی کارڈ، پرائیڈ فڈل سکول مرکز کیٹ اور سرورس ریکارڈ کے تحت 05-02-1976 ہے لیکن میٹرک کے اسناد میں عدیدہ کی تاریخ پیدائش 30-02-1974 درج ہے جو کہ غلط خلاف حقیقت اور غیر فطری ہو سکتی ہے جب سے قابل تصحیح ہے؟ OPP
- ۳۔ کیا دہ گونی عدیدہ سر میرزا زائد المیہ جاد ہے؟ OPD
- ۴۔ کیا دہ گونی عدیدہ زیر آرڈر 7 رول 11 ضابطہ دیحانی قابل اخراج ہے؟ OPD
- ۵۔ کیا عدیدہ تحت ضابطہ وقانون مدعا علیہم کو برائے تصحیح تاریخ پیدائش اندر 6 ماہ کوئی درخواست نہیں گزاری ہے؟ OPD
- ۶۔ داد کی؟

4. After framing of the aforesaid issues, the parties led the respective oral and documentary evidence in the trial Court. In addition to oral evidence the plaintiff has also produced some documentary evidence Exh- P/1 to Exh-P/5.

5. The petitioners/defendants have not produced any oral or documentary evidence in the trial Court except recording of their statement through departmental representative namely Muhammad Ishaq incharge Federal Board of Intermediate and Secondary Education Gilgit.

6. On conclusion of the trial, the learned trial Court vide the judgment/decreed dated 02-11-20-17 has decreed the suit of present respondent/plaintiff in her favour. The said judgment/decreed passed by the learned trial Court was assailed by the present petitioners/defendants through an appeal before the learned Additional District Judge Gilgit which was also dismissed by the learned 1<sup>st</sup> Appellate Court vide the impugned judgment/decreed dated 24-04-2018 by maintaining the judgment/ decreed of the learned trial Court. Hence this civil revision petition.

7. The learned counsel for the petitioners has argued that while passing the impugned judgment/decreed the learned 1<sup>st</sup> Appellate Court has not applied its judicious mind and in a slip shot manner has dismissed the civil first appeal of the present petitioners. The learned counsel for the petitioners has further argued that the impugned judgment/decreed passed by the learned 1<sup>st</sup> Appellate Court is a result of misreading and non reading of the evidence of the parties as such the impugned judgment/decreed passed by the learned 1<sup>st</sup> Appellate Court is not maintainable and liable to be set aside. Concluding his arguments the learned counsel for the petitioners has argued that suit of the respondent/plaintiff was time barred and the learned 1<sup>st</sup> Appellate Court as well as trial Court have wrongly decreed the suit of the respondent/plaintiff in her favour.

8. On the other hand the learned Counsel appearing on behalf of the respondent/plaintiff controverted the arguments advanced by the learned counsel for the petitioners by contending that since the plaintiff/respondent has proved her claim/ case by adducing cogent and reliable oral and documentary evidence in the trial Court, therefore, the learned trial court as well as 1<sup>st</sup> Appellate Court have rightly decreed the suit of the plaintiff in her favour. The learned counsel for the respondent/plaintiff further argued that the petitioners/ defendants have miserably failed to adduce a single oral or documentary evidence to rebut the claim of the respondent/plaintiff. Concluding his arguments the learned counsel for the respondent/plaintiff argued that



the plaintiff/respondent had filed a suit for correction of her date of birth when she acquired knowledge regarding wrong entry of her date of birth in the matriculation certificate by the present petitioners.

9. I have heard the arguments advanced by the learned counsel for the parties and have gone the record with their able assistance.

10. It is case of the plaintiff/respondent that her actual/correct date of birth as per CNIC, her School record and service book is 05-02-1976 and the petitioners/defendants have wrongly mentioned her date of birth in matriculation certificate as 30-02-1976. In order to substantiate her claim the plaintiff/respondent has produced school leaving certificate Exh-PW/2, salary slip/ service record Ex-PW/2, copy of CNIC Exh-PW1/B, copy of family registration certificate Exh PW/1-C, copy of birth registration certificate Exh PW/1-D. I have gone through the contents of aforesaid Exhs/documents and found that the date of birth of the plaintiff has been disclosed as 02-05-1976 in the above mentioned documents. Moreover, the aforesaid documents were also corroborated by four reliable PWs, in their statements recorded by the learned trial Court, hence the plaintiff has proved his case by adducing un-impeachable oral as well as documentary evidence in the learned trial Court, whereas the petitioners/defendants have failed to produce a single oral or documentary evidence in the learned Court to rebut/controvert the averments of plaintiff except recording of the statement of their departmental representative. The learned counsel for the petitioners mainly emphasized that

suit of the respondent/plaintiff was time barred and the learned trial Court as well the learned 1<sup>st</sup> Appellate Court have wrongly decreed the suit in favour of plaintiff/respondent.

11. Admittedly the period of limitation for filing of the suit for declaration is regulated by Article 120 of Limitation Act 1908, which prescribes six years period commencing from the time when the right to sue accrues. In the instant case when the plaintiff acquired knowledge of wrong entry of her date of birth in her matriculation certificate, she has filed the suit in the trial Court as evident/mentioned in Para 4 of the plaint. The respondent/plaintiff's suit in view of circumstances of the instant case was well within time and could not be said to be time barred. My this view is fortified by case law reported in PLD 1988 Lahore 658.

12. In view of above discussion, I do not find any force in this revision petition and I am of the opinion that the concurrent findings rendered by the learned 1<sup>st</sup> Appellate Court and the learned Trial Court being unexceptional need no interference by this Court through its revisional jurisdiction as such this revision petition is dismissed leaving the parties to bear their own costs. File.

**Announced**  
**23-02-2019**

**Judge**