

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Mr. Justice Naeem Akhter Afghan
Mr. Justice Muhammad Shafi Siddiqui

Civil Petition No. 1189 of 2025

*[Against the judgment dated 27.02.2025 of
the Peshawar High Court, Abbottabad Bench
passed in Writ Petition No. 356-A/2022]*

Mst. Edan Bibi. ... *Petitioner*

Versus

Naseem Khan and others. ... *Respondents*

For the Petitioner: Mr. Khalid Rehman Qureshi, ASC.
Mr. Anis Muhammad Shahzad, AOR.

For the Respondents: Not represented.

Date of Hearing: 22.04.2025.

ORDER

Muhammad Shafi Siddiqui, J. The petitioner being aggrieved of the findings of the first Appellate Court and the Revisional Court (High Court) has preferred this petition for leave to appeal.

2. In precise, the facts of the case are that the petitioner instituted a civil suit against the respondents/defendants for declaration, injunction and possession in respect of the properties (fully described in the plaint) to be her ownership. It was claimed that a house was transferred in her name by her husband in lieu of dower and he had gifted a house and a shop to her vide Gift Deed dated 11.05.2010. The petitioner also challenged the inheritance mutation No.949 dated 28.07.2011 in respect of the suit properties. The suit was contested by the respondents and after framing of the issues, the Civil

Court, Haripur decreed the suit as prayed for vide judgment and decree dated 15.09.2021.

3. Aggrieved of it, respondents filed their appeal before the Additional District Judge-III, Haripur, which after hearing was partly allowed and the judgment and decree of Civil Court was modified to the extent of Prayer clause (A) and the same was maintained/upheld for the house transferred in her name in lieu of dower while the judgment and decree of Civil Court was set aside to the extent of Gift Deed dated 11.05.2010 and the inheritance mutation No.949 was restored. The Revisional Court after discussing the evidence concurred with the finding of the first Appellate Court and consequent upon the decision of the Revisional Court, the petitioner filed this CPLA.

4. We have heard the learned counsel for the petitioner and perused the material available on record. When enquired about the concurrent decisions of the two forums immediately below, the learned counsel though conceded, but stated that it was wrong appreciation of evidence by the first Appellate Court and the Revisional Court.

5. We have perused not only the order passed by the High Court in Civil Revision No.356-A of 2022, but also perused the judgments rendered by the first Appellate Court and the Trial Court. The first Appellate Court discussed all the witnesses and their respective documents exhibited. In the first instance, the Trial Court decreed the suit only to the extent of the prayer "Alif", while the remaining relief was declined, whereas, the appellate authority, in the first round of litigation, *vide* judgment dated 04.03.2017 remanded the case. The order of the first Appellate Court in the first round of litigation was also challenged before the High Court, Abbottabad Bench which also remanded the matter *vide* order dated 01.10.2020, which in fact

set aside both the judgments and remanded back the matter to the Trial Court with certain directions and to re-write the judgment.

6. Some evidence, subsequent to remand, was recorded whereas the earlier evidence recorded was also relied upon by both the parties.

7. The Trial Court then decided the case afresh *vide* its judgment and decree dated 15.09.2021, as stated above, which was set aside by the Appellate Court in Civil Appeal No.68/13 of 2021 *vide* judgment dated 28.09.2022 and maintained by the High Court in Civil Revision No.356-A of 2022 *vide* impugned judgment dated 27.02.2025.

8. A perusal of the order of the first Appellate Court in the second round of litigation show that it discussed the deposition of all witnesses minutely in terms of para-7 and formed a view which has a dominant consequence as far as the appreciation of evidence by the Trial Court is concerned and maintained by the revisional court. The revisional Court too, though not mandated to, re-appraise the evidence, but it did not alter the findings and hence in such view of the matter it is the concurrent finding of the first Appellate Court and the Revisional Court which is assailed before us.

9. The Appellate Court and the Revisional Court discussed about the incompleteness of the gift owing to lack of offer, acceptance and delivery of possession in lieu of alleged gift. The petitioner has not been able to point out as to which part of the evidence was misread or ignored and had it been read it would not have passed the impugned judgments and the view formed could have been different. Since the petitioner has failed to point out any illegality or irregularity in the impugned judgment and also failed to point out any part of evidence which was ignored or misread, this Court cannot interfere in the concurrent findings of the two courts below.

10. In view of the foregoing, this petition having no merit is dismissed and leave to appeal is refused.

Judge

Judge

Islamabad:
22.04.2025
(M. Tauseef)