

IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN

AT REGISTRY BRANCH SKARDU.

C.P.L.A NO.18/2010.

Before :- Mr.Justice Dr.Rana Muhammad Shamim, Chief Judge.

Mr.Justice Muzaffar Ali Judge.

All Residents of Mouza Shilla Tehsil and Sub Division Skardu District through representatives (1) Muhammad s/o Abdul Karim (2) Muhammad Ali s/o Abdullah residents of village Shilla Tehsil and District Skardu.

Petitioners/Appellants.

Versus

All Residents of Mohallah Kricko Mouza Doro Tehsil and Sub Division Skardu District Skardu through Representatives (1) Lamberdar Ghulam Haider (2) Haji Ahmed s/o Safar Ali (3) Rustam s/o Haji Abdu residents of Kricko Doro Tehsil and District Skardu.

Respondents/Defendants.

PETITION FOR LEAVE TO APPEAL AGAINST THE JUDGMENT/DECREE DATED 10-05-2010, PASSED BY THE LEARNED MEMBER CHIEF COURT GILGIT-BALTISTAN CAMP AT SKARDU.

Present :- 1. Mr.Munir Ahmed Advocate alongwith Mr.Ghulam Haider AOR for petitioners.

2. Mr.Muhammad Issa Sr.Advocate for the Respondents.

Date of Hearing :- 16-11-2015:-

JUDGMENT:-

Mr. Justice Muzaffar Ali J..... It is a longstanding dispute between the parties since 1994. The issue was carried twice up to the learned Chief Court. Finally, this appeal before this Court, as we have converted the petition for leave to appeal into appeal by granting the petition for leave to appeal.

The facts giving rise to this appeal are as such that, the present respondents/plaintiffs filed representative suit No.48/1994 before the learned Court of Civil Judge Skardu for declaration cum perpetual injunction with the contention that the plaintiffs have exclusive grassing rights over the pasture namely “**Chunchun**” while the pasture **Khurfons** is a joint pasture of the plaintiffs with the village **Broqchat** and village **Sirmik**, with the exception that the villagers of **Broqchat** and **Sirmik** having no cattle-shed in the said pasture. The present petitioners /defendants without any right over the pasture are trying to interfere illegally, into the pastures, consequently the defendants are liable to be restrained from interference into the pastures under the suit perpetually.

The learned trial Judge issued summons to the defendants and they attended the court in response and submitted their written statement whereby, they denied the version taken by the plaintiff in

the plaint and contended that, the defendants have equal rights over the pasture with the plaintiffs and the defendants also enjoying the grassing rights alongwith the plaintiffs since time immemorial.

The learned trial court proceeded with the suit, framed issues parties adduced evidence documentary as well as oral pro and contra and finally the learned trial Judge decreed the suit in favour of the plaintiffs on merits. The present appellants being dissatisfied from the decree against them filed 1st appeal before the learned court of District Judge Skardu against. The learned District Judge agreed with the learned trial Judge on merits and maintained the impugned decree passed by the learned trial court.

The appellants being dissatisfied with the concurrent findings made by both the Courts below. Opted to get a favorable judgment from the learned Chief Court Gilgit Baltistan through Revision Petition against the impugned decrees but failed to convince the learned Chief Court also on merits. The learned Chief Court disagreed to frustrate the concurrent findings of the learned Courts below and dismissed the Revision Petition. The appellants again felt themselves aggrieved, hence this appeal before this Court, against the concurrent findings of learned lower Courts below.

We heard the learned counsel for the parties. Since the lower Courts, from learned trial Court up to the learned Chief Court, are at consonance and have passed concurrent findings as such, we asked

the learned counsel for the appellant to point out a material issue of law, which has been over sighted by the Courts below and convince us that, if the same was considered and determined by them, the decision of the case would have been turn in favour of the appellants.

The learned counsel in response, referred the documents (i) Exh.-P-A, (ii) Exh-P-B (iii) Exh-P-C and urged that, the learned Chief Court has amended the decree passed by the learned lower Courts and has made the documents rule of the Court without going into legal sanction of the same and the trial Court as well as the 1st appellate Court have also relied upon the same documents without making any legal inquiry about genuineness of the same.

We visited through the documents which are pertaining to Revenue record, whereby the grassing rights over the disputed pasture have been determined .The documents are admissible in evidence and reliance could be made on the same unless better documentary evidence is produced by the appellants in rebuttal. We noticed that no iota of evidence on the record of the case referred by the appellants to prove the documents to be forged or concocted, rather the learned counsel failed to point out any rebuttable plea made by the appellants in the written statement. Consequent upon, the learned counsel for the petitioner does not attract our judicial wisdom to interfere with the concurrent findings of the learned Courts below as this Court is not supposed to scrutinize issues on

facts unless the findings of learned Courts on a fact gives birth to mis-interpretation of a substantial law point which might turn the result.

Resultantly, the learned counsel for the petitioner failed to substantiate his case as such, the appeal is dismissed and the concurrent findings/decrees of the Courts below are maintained.

The appeal is dismissed.

Date of Reasoning:-

16-11-2015

Judge

Chief Judge

Whether the case is fit to be reported or not?