

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN,
GILGIT.**

Before:-

Mr. Justice Dr. Rana Muhammad Shamim, Chief Judge.

Mr. Justice Javed Iqbal, Judge.

Civil Appeal No. 93/2016

In

CPLA No. 79/2017.

Liaqat Ali son Jaffar Ali R/O Chongrah Tehsil & District Astore

Petitioner.

Versus

Provincial Government & others

Respondents.

PRESENT:-

1. Mr. Amjad Hussain Advocate alongwith Mr. Ali Nazar Khan Advocate-on-Record for the petitioner.
2. The Advocate General for Provincial Government Gilgit-Baltistan.
3. Mr. Muhammad Iqbal Advocate for respondent No. 06.

DATE OF HEARING: - 25.09.2017.

ORDER.

Dr. Rana Muhammad Shamim, CJ..... This Appeal has arisen out of the impugned order dated 03.06.2016 passed by the learned Chief Court whereby the Civil Revision No. 48/2016 filed by the respondents was disposed off by setting aside the impugned order dated 25.05.2016 passed by the learned Senior Civil Judge Astore and remanded the matter back to the Trial Court with the direction to thrash the petition under Section 151 CPC and decide the same after fulfilling all the legal requirements provided under the law. The petitioner being aggrieved filed this petition for leave to appeal. This court vide order dated 24.11.2016 granted leave to appeal and the case is heard today.

2. Briefly, the facts of the instant proceedings are that the petitioner filed Civil Suit No. 232/2015 in the learned Court of

Vacation Judge Gilgit for declaration and permanent injunction to the effect that District Health Officer Astore vide Officer Order dated 24.03.2013 the petitioner is entitled to run Medical Store in DHQ Hospital Astore till the construction/completion of 30-Bedded Hospital at Astore. Later on, the respondents called tender vide Notice dated 29.07.2015 for establishment of medical Store at DHQ Hospital Astore before completion of the construction of 30-Bedded Hospital. An application under Order 39 Rule 1 & 2 read with Section 151 CPC has also been filed by the petitioner for temporary injunction restraining the respondents to eject the petitioner from the disputed medical Store. During hearing of the said suit the parties were directed to maintain status quo which remained intact till 14.11.2015. On 19.02.2015 the learned Presiding Officer was on leave, therefore, the case was adjourned by the Reader of the Court. Status quo was not mentioned to be extended till next date or otherwise? The respondents taking the benefits of the same ejected the petitioner from the premises. Upon hearing, the learned Trial Court allowed the petition vide order dated 25.05.2016 with the observation that the status quo was in filed and the petitioner shall be put in same position. The respondents being aggrieved filed Civil Revision No. 48/2016 in the learned Chief Court instead of filing Civil First Appeal in the learned District Court Astore. The learned Chief Court upon hearing allowed the said Revision Petition of the respondents vide impugned order dated 03.06.2016.

3. The learned counsel for the petitioner at the very outset submits that the impugned order is not sustainable as the forum of learned First Appellate Court has not been exhausted by the respondents and they have wrongly rushed to the learned Revisional Court. Per learned counsel, the impugned order is liable to be set aside being illegal and without jurisdiction.

4. On the other hand, the learned Advocate General Gilgit-Baltistan supports the impugned order passed by the learned Chief Court. He, however, could not present any arguments in support of his contentions.

5. We have heard the learned counsels for the respective parties at length, perused the material on record and gone through the impugned order. In our considered view, the impugned order has been passed without jurisdiction, hence, the same is not tenable.

6. In view of the above discussions, we allow this appeal. Consequently, the impugned order dated 03.06.2016 in Civil Revision No. 48/2016 passed by the learned Chief Court is set aside by maintaining the order dated 25.05.2016 passed by the learned Senior Civil Judge Astor.

7. The appeal is allowed in above terms.

Chief Judge.

Judge.

Whether the case is Fit to be reported or Not?