

**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. 16/2018

In

CPLA No. 135/2017.

Madham Khan

Petitioner.

Versus

Brigade Commander 80 Brigade Mining & 05 others **Respondents.**

PRESENT:-

1. Mr. Amjad Hussain Advocate alongwith Mr. Ali Nazar Khan Advocate-on-Record for the petitioners.
2. The Deputy Attorney General for Pakistan at Gilgit.
3. The Advocate General Gilgit-Baltistan for respondents.
4. Maj. Husnain Afzal Sahi Representative of 80 Brigade Commanders.
5. Mr. Ziad, Assistant Commissioner, Astore is present in Court.

DATE OF HEARING: - 18.05.2018.

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This petition has arisen out of the impugned order dated 26.09.2017 in Civil Revision No. 21/2014 passed by the learned Chief Court whereby the said Civil Revision filed by the petitioner was dismissed being meritless, hence, this petition for leave to appeal. This court vide order dated 06.03.2018 issued notices to the respondents and the case is heard today.

2. Briefly, the facts of the case are the petitioners filed a Civil Suit No. 74/2008 in the Court of learned Civil Judge 1st Class, Astore against the respondents for declaration and permanent

injunction contending therein that they are in possession on the suit land from the life time of their forefathers. He has improved the land in question and planted trees on it. Likewise, the petitioner also built/constructed shops while spending huge amount over the suit land. As per averments of the petitioner that on the basis of fake and factitious demarcation report, the respondent No.01 & 02 want to occupy the land in question of the petitioner. The respondents denied the averments of the petitioner who admitted in their written statement that the petitioner is in possession of land under Khasra No. 488/489, however, he has illegally occupied the land under Khasra No. 1521 measuring 02 Kanal and 13 Marlas. The learned Trial Court upon hearing dismissed the suit of the petitioner vide judgment dated 15.06.2013 which was upheld by the First Appellate Court as well as the learned Chief Court, hence, this petition for leave to appeal.

3. Mr. Amjad Hussain, the learned counsel for the petitioner submits that the disputed property is the ancestral property of petitioner and respondent No. 07. He also submits that the petitioner and respondent No. 07 were enjoying rights of ownership for the last sixty (60) years. He adds that the trees planted by their forefathers are still intact in the said land. Per learned counsel, the respondent No. 01 & 02 with the connivance of the Revenue authorities first encroached 09 Marla and 03 Marla of the land from the petitioner and respondent No. 07 respectively whereafter got it mutated in their names. He further submits that

the learned Trial Court, the First Appellate Court and the learned Chief Court have not considered this fact and not properly appraised the evidence and other material on record while deciding the case(s) of the petitioner. The petitioner and respondent No. 07 have been deprived from their legal rights of possession and inheritance. He reiterates that even if a person occupies Government land for twenty (20) years who successfully proved/proves such occupancy for twenty (20) years, he can not be disposed and deprived to claim occupancy rights on the said land. He submits that on the contrary, the petitioner and the respondent No. 07 have legal ownership being of ancestral land for last sixty (60) years which has not been considered by the learned Courts Below at the time of delivering judgments/decree which are not sustainable. He prays that the concurrent findings of the learned three Courts below may graciously be set aside to meet the ends of justice.

4. On the other hand, the learned Deputy Attorney General for Pakistan at Gilgit, the learned Advocate General Gilgit-Baltistan and Major Husnain Sahi appearing on behalf of 80 Brigade Commander support the concurrent findings of the learned three Courts below. They contend that the learned Courts below have rightly appreciated the evidence on record while passing the judgments/decree which are sustainable. They pray that the concurrent findings of the learned three Courts below may pleased by maintained being well reasoned and well founded.

5. We have heard the learned counsels for the respective parties at length, perused the material on record and gone through the concurrent findings of the learned three Courts below. The learned Chief Court while concurring with the views taken by the First Appellate Court and the Court of first instance do not appear to have suffered from misreading or non-reading of evidence. Further, the learned counsel for the petitioner also could not point out any infirmity or illegality in the well reasoned impugned order passed by the learned Chief Court, hence, interference into concurrent findings of the three Courts below is not warranted by this Court.

6. In view of the above discussions, we convert this petition into an appeal and the same is dismissed. Consequently, the concurrent findings of the learned three Courts below are affirmed.

7. The appeal is dismissed in above terms.

Chief Judge.

Judge.