

**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. 66/2017
in
CPLA No. 67/2017.**

Abdul Qayyum son of Sher Muhammad R/O Babusar Chilas

Petitioner.

Versus

Dilawar Hussain son of Noor Alam R/O Babusar

Respondent.

PRESENT:-

1. Mr. Sharif Ahmed Advocate for the petitioner.
2. Mr. Johar Ali Khan Advocate on behalf of the respondent.

DATE OF HEARING: - 29.09.2017.

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This Civil petition has arisen out of the impugned order dated 22.03.2017 passed by the learned Chief Court whereby the Revision Petition No. 128/2016 filed by the respondent was accepted, hence, this petition for leave to appeal. This court vide order dated 14.06.2017 issued notice to the respondent and the case is heard today.

2. Briefly, the facts of the case are that the respondent filed a Civil Suit 110/2016 for recovery of Rs. 11,23221/- against the present petitioner/defendant. He also filed an application under Order 38 Rule 5 CPC with a prayer that amount of compensation against Khasra No. 706 Bunar Dass to the extent of 02 Kanals 13 Marlas, is assessed in favour of the petitioner/defendant which may

be attached before the judgment as the defendant has to pay the suit amount to plaintiff/respondent. In case of payment of the same is made to the petitioner/defendant, it is apprehended that he may abandon the locality to frustrate the decree of respondent/plaintiff. The petitioner/defendant denied the contents of plaint on legal and factual grounds contending that the petitioners/defendant will not abandon the locality and other properties of the petitioners /defendants do exist in the locality.

3. The learned counsel for the petitioner submits that the suit filed by the respondent was not maintainable due to mix up of declaration and recovery of the amount from the petitioner. He also submits that the impugned order passed by the learned Chief Court is contrary to the law and facts of the case, hence, the same is not sustainable whereas the order passed by the learned District Court is sustainable being passed in accordance with law. He prays that the impugned order may graciously be set aside.

4. On the other hand, the learned counsel for the respondent supports the impugned order with the contention that the learned Chief Court has rightly accepted the Revision Petition of the respondent as the learned District Judge lacks pecuniary jurisdiction to entertain & decide it. The order passed by the learned District Judge was/is coram-non-judice. He prays to maintain the impugned order passed by the learned Chief Court in circumstances.

5. We have heard the learned counsels for the respective parties at length, perused the material on record and gone through the impugned judgment. Admittedly, the learned District Court has no pecuniary jurisdiction to entertain the suit bearing amount of Rs. 11, 23,221/-. The impugned judgment passed by the learned Chief Court is well reasoned as no infirmity or illegality is pointed out by the learned counsel for the petitioner.

6. In view of the above discussions, we convert this petition into an appeal and the same is dismissed. Consequently, the impugned order dated 22.03.2017 passed by the learned Chief Court is affirmed.

7. The appeal is dismissed in above terms.

Chief Judge.

Judge.