

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

Before:-

**Mr. Justice Dr. Rana Muhammad Shamim, Chief Judge.
Mr. Justice Javed Iqbal, Judge.**

C. Appeal No. 29/2015.

**In
CPLA No. 93/2015.**

1. Afzal Khan son of Nazar r/o Hundur Tehsil Yasin, District Ghizer. **Petitioner.**

Versus

1. Muhammad Sharif & 02 others **Respondents.**

PRESENT:-

1. Mr. Ali Nazar Khan Advocate-on-Record for the petitioner.
2. Mr. Manzoor Ahmed Advocate on behalf of the respondents.

DATE OF HEARING: - 06.10.2016.

DATE OF DETAIL JUDGMENT: - 03.11.2016.

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This petition has been directed against the impugned judgment dated 26.04.2013 in Civil Revision No. 23/2010 passed by the learned Gilgit-Baltistan Chief Court, whereby the petition filed by the petitioner was dismissed being meritless by maintaining the concurrent findings of the courts below. The petitioner being aggrieved filed this petition for leave to appeal. This court vide order dated 19.10.2015 granted leave to appeal. Consequently notices were issued to the respondents and the case was heard on 06.10.2016. Upon hearing the appeal of the petitioner was dismissed vide this court short

order dated 06.10.2016 by maintaining three concurrent findings of the learned courts below.

2. Briefly facts of the case are that the petitioner filed a Civil Suit in the Court of learned Civil Judge Gupis/Yasin, District Ghizer against the respondents for declaration and possession of land measuring seven (07) Kanals situated in Hundur Yasin challenging that appellant is the owner of the land, and possession of the suit land by the respondent No. 01 is illegal, without authority and fraud on the basis that appellant was to return default loan amount to the Zarai Taraqati Bank Limited (ZTBL). The respondent offered to pay the said amount of loan amounting to Rs. 25000/- with interest of Rs. 10000/- resultantly the petitioner mortgaged the disputed land in the name of the respondent. The respondent later on failed to pay the entire said amount to the Bank in question on behalf of the petitioner, however, an amount of Rs. 14000/- only was paid to the said Bank. Meanwhile, as per version of the petitioner the respondent with the collusion of respondent No. 02 prepared a fake document of the land in question and declared himself as owner of the said land. Furthermore, the version of the respondent No. 01 is that he had purchased the suit land from the petitioner at a cost of Rs. 14000/- which he paid to the Zarai Taraqati Bank Limited (ZTBL) on behalf of the petitioner resultantly the respondent has become the owner of the disputed land, however, the possession of the suit land has not been handed over to him by the petitioner, by one or others pretexts.

3. The respondent being aggrieved filed an application before the learned Assistant Commissioner Gupis/Yasin for recovery of Rs. 14000/-. The matter was referred to the Chairman Union Council and some other members for private settlement. After hearing the parties the Chairman Union Council alongwith other members given 05 Kanals out of 07 Kanals suit land to respondent No. 01 with the condition that in case the petitioner pays Rs. 14000/- to respondent No. 01 within one year, the land will stand reverted to the petitioner. During the said stipulated time the petitioner remained unsuccessful to pay the said amount to the respondent, the land was handed over to respondent No. 01 by the petitioner as per decision of the arbitrators. The petitioner being aggrieved filed Civil Suit No. 71/2004 which upon hearing was partially decreed up to the extent of 05 Kanals land in favour of the petitioner/plaintiff vide judgment dated 15.12.2006. The petitioner being aggrieved filed Civil Misc. No. 16/2007 before the learned Civil Judge 1st Class Gupis/Yasin to review the judgment dated 15.12.2006 which upon hearing was dismissed vide order dated 21.05.2008, which subsequently maintained by the learned Additional District Judge Ghizer and by the learned Gilgit-Baltistan Chief Court, hence, this appeal. The appeal of the petitioner was, however, dismissed vide this court short order dated 06.10.2016.

4. The learned counsel for the petitioner submits that the petitioner is the owner of the disputed land which was given to the respondent temporarily to take the benefits from its grass etc with

the commitment that the respondent will pay the entire amount of Rs. 25000/- plus Rs. 10000/- markup to the Zarai Taraqiati Bank Limited (ZTBL). He also submits that the respondent paid only Rs.14000/- to the Bank in question and he failed to pay the whole amount as per their commitment. He further submits that the respondent with the collusion of Tehsildar Yasin/respondent No.02 fraudulently prepared fake and bogus documents of the suit land in his name and declared himself as owner of the land. He also submits that the petitioner being aggrieved filed a Civil Suit in the Court of learned Civil Judge Gupis, District Ghizer against the respondents for declaration and possession of land measuring seven (07) Kanals situated in Hundur Yasin contending that petitioner is owner of the land and possession of the respondent No. 01 is illegal & without lawful authority. The petitioner has to return defaulted loan amount to the Zarai Taraqiati Bank Limited (ZTBL). The respondent offered to pay the said amount of Rs. 25000/- with interest of Rs. 10000/- resultantly the petitioner mortgaged the disputed land in the name of the respondent. He reiterates that the learned Civil Court Gupis /Yasin wrongly dismissed the suit of the petitioner and the learned Trial Judge failed to apply its judicial mind to the facts of the case, hence, the same is not tenable and liable to be set aside. He also contended that the concurrent findings of the courts below are the result of misinterpretation of law, misreading and non-appreciating of the facts of the case.

5. Conversely, the learned counsel for the respondents supports the impugned judgment dated 26.04.2013 in Civil Revision No. 23/2010 passed by the learned Gilgit-Baltistan Chief Court as well as the concurrent findings of the courts below. He contends that the respondents has paid amounting of Rs. 14000/- to the Agriculture Bank in the year 1995 on behalf of the petitioner against his loan. The petitioner subsequently failed to repay the same. He also contends that the claim of the petitioner that the suit land was given to the respondents as Amanat just to take benefits in shape of grass etc is baseless. The petitioner has miserably failed to produce an iota of evidence in support of his contentions. He further contends that the respondents have successfully proved their case through credible evidences which have rightly been appreciated by the learned Courts below being well reasoned and well founded.

6. We have heard the learned counsels for the respective parties at length, perused the record of the case file and gone through the concurrent findings of the three courts below. The learned counsel for the petitioner could not point out any illegality, infirmity and mis-appreciation of evidence in the impugned judgment dated 26.04.2013 in Civil Revision No. 23/2010 passed by the learned Gilgit-Baltistan Chief Court. In our considered view, no interference is warranted in the impugned judgment of the learned Gilgit-Baltistan Chief Court. Consequent thereto we dismissed the Civil Appeal No. 29/2015 in CPLA No. 93/2014 vide

our short order dated 06.10.2016. These were the reasons for our short order dated 06.10.2016.

7. The appeal is dismissed in above terms.

Chief Judge.

Judge.

Whether the case is fit to be reported or not?