

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN
C.P.L.A.NO.13/2009**

**Before:- Mr. Justice Syed Jaffar Shah, Judge.
Mr. Justice Muhammad Yaqoob, Judge.**

Ghulam Qadir s/o Ghulam Sarwar Khan r/o Ceck Tibi Wala post office Tipu
Sultan Pur Tehsil Melsi District Wihari. **Petitioner**

VERSUS

1. Ghulam Abbas s/o Mehdi Hassan r/o House No.29 Govt. Colony
X-Block Tehsil & District Okara permanent address House No. 253
Block No.6 near masjid Faroqia Johanian.
2. Motor Registration Authority through Secretary (ETO) Transport
Authority Northern Areas. **Respondents**

**APPLICATION FOR GRANT OF LEAVE TO APPEAL AGAINST
THE JUDGMENT/ORDER DATED 22-04-2009 PASSED BY THE
HON'BLE JUDGES NORTHERN AREAS CHIEF COURT GILGIT,
WHEREBY THE WRIT PETITION OF THE RESPONDENT NO.1
HAS BEEN ACCEPTED AND THE ORDER PASSED BY THE
RESPONDENT NO.2 DATED 23-09-2008 IS SET ASIDE AND THE
DUPLICATE REGISTRATION CERTIFICATE/OWNERSHIP OF
THE RESPONDENT NO.2 IS DECLARED VALID AND RESTORED.**

Present:- Mr. Sharif Ahmad, Advocate for petitioner.
Mr. Javed Iqbal, Advocate and S.M. Mohsin Hamdani, Advocate
for the respondents.
Syed Yasir Hussain, ETO (Excise & Taxation Officer), District
Gilgit.

Date of Hearing:-31-03-2010.

JUDGMENT

MUHAMMAD YAQOOB, J..... This leave to appeal seeks to call in question the legality of the judgment/order passed by the Division Bench of Chief Court Gilgit-Baltistan dated 22-04-2009, by which writ petition filed by respondent No.1

challenging the order passed by the Motor Registration Authority Gilgit was allowed and the impugned order dated 23-09-2008 was declared to be without lawful authority and of no legal effect.

2. The facts forming the background of this leave to appeal are that the respondent No.1 had purchased a truck/trolley bearing registration No.GLT-5613 model-1986 chassis No.38309 and engine No-112057 from the present petitioner in consideration of Rs.1, 200,000/- (Twelve Lac only).

3. Respondent No.1 had paid the entire amount to the petitioner and the petitioner got transferred duplicate registration book in the name of respondent NO.1, but on 11-9-2008, the petitioner with malafide intention submitted an application to the Motor Registration Authority Gilgit, for cancellation of duplicate Registration certificate with the pretext that the respondent No.1 fraudulently transferred the ownership of vehicle through duplicate registration book as such the duplicate registration Book may be cancelled.

4. On the said application the Motor Registration Authority had issued a final notice on 20-9-2008, to the respondent No.1 with the direction that respondent No.1 will appear before them within a week to settle the dispute once for all vide office order SEC/MRA(GLT) 1(9)/1195-97/2008 dated 11-09-2008 and 20-09-2008. The said notice was received by the respondent No.1 on 26-09-2008, and on the receipt of the said notice counsel for the petitioner (S.M. Mohsin Hamdani Advocate) informed the Motor Registration Authority Gilgit in writing that the respondent No.1 will appear after Eid-ul-Fitr on 10-10-2008, but without giving opportunity to the respondent No. 1 and before expiry of stipulated period mentioned in final notice, the Motor Registration Authority Gilgit cancelled the duplicate registration certificate/ownership of the respondent No.1 vide office order dated 23-9-2008, which act of respondent No.2 is illegal, against fact, ex-parte, unheard and against the precious rights of the respondent No.1, as such the cancellation order dated 23-9-2008 is liable to be set aside.

5. We have heard Mr. Sharif Ahmed Advocate, the learned counsel for the petitioner and perused relevant record of the case, the learned counsel for the petitioner strenuously argued, that the impugned judgment of the Chief Court Gilgit-Baltistan is illegal, against the facts, un-heard and against the norms of justice. Hence not maintainable. He further contended that initially the truck /trolley cited above was sold in consideration of Rs.120, 0000/- to the respondent No.1. The

ownership of the truck/trolley also transferred and handed over its duplicate copy of registration book to respondent No.1, despite completion of codel formalities respondent No.1 with held 50,000/- (fifty thousand only) without any reason, on account of which petitioner have no option except to file representation for cancellation of duplicate registration book to respondent No.2. He further submitted that Motor Registration Authority (respondent No.2) has rightly cancelled the duplicate registration book and restore the ownership of present petitioner. Counsel for petitioner further submits that the Chief Court Gilgit-Baltistan has utterly failed to follow the mandatory provisions of Order 5 Rule 20 and 21 of C.P.C. Hence great miscarriage of justice has been occasioned; therefore, the impugned judgment is not sustainable and liable to be set aside.

6. On the other hand the learned counsel for respondent No.1 Mr. Javed Iqbal, Advocate submits that the Hon'ble Chief Court Gilgit-Baltistan has followed all the mandatory provisions of law for summoning the present petitioner by adopting all the available means under Order 5 Rule 20 and 21 of C.P.C. In spite of notice, the present petitioner did not appear before the Chief Court, therefore the Hon'ble Chief Court is absolutely right to pass judgment in favour of the respondent No.1. Learned counsel for respondent No.1 further submits that representative of respondent No.1 (Motor Registration Authority Gilgit) appeared before the Hon'ble Chief Court with relevant record. After perusal of record, it appears that the first owner /present petitioner appeared himself in the office of Motor Registration Authority Gilgit, with duplicate Registration alongwith sale deed, etc. for transfer of ownership in favour of respondent No.1. After going through the record the Hon'ble Chief Court has accepted the writ petition in favour of respondent No.1. The respondent No.1 has already paid all amount and nothing is due on respondent No.1, as such, he request that this leave to appeal is not maintainable and liable to be dismissed.

7. After giving careful consideration to the arguments advanced by the learned counsel for the parties and perusal of the record of the case, we have come to the conclusion that the learned Division Bench of the Chief Court has followed all the mandatory provisions of law for attendance of the present petitioner by adopting all the available means under Order 5 Rule 20 and 21 of C.P.C. we have minutely gone into the impugned judgment of the Chief Court Gilgit-Baltistan, wherein the learned Chief Court Gilgit-Baltistan, has clearly referred the "order sheet" dated 26-3-2009, the contents of the order sheet and the relevant para of the impugned judgment of the Chief Court, which is reproduced herein below to appreciate the legal and factual aspects of the controversy:-

“Notices were issued against the present petitioner/respondent No.2 in the addresses mentioned and thereafter under Order 5 Rule 20 and 21 of C.P.C. in the daily Nawa-e-Waqt Multan dated 13-3-2009 vide order sheet dated 26-3-2009 of the Registrar of this Court, but respondent No.2 /present petitioner did not attend the Court.”

9. Despite of written request to respondent No.2, that respondent No.1 will appear before Motor Registration Authority Gilgit after “Edi-ul-Fitr” on 10-10-2008, but without giving opportunity to the respondent No.1 to meet the frivolous and concocted allegations leveled by the present petitioner and before expiry of stipulated period mentioned in the final notice , the respondent No.2 (Motor Registration Authority Gilgit) has illegally cancelled the duplicate copy of registration book, which act of respondent No.2 is ex-parte, unheard and against the precious rights of the respondent No.1. The learned Division Bench of Chief Court Gilgit Baltistan has rightly set aside the order dated 23-9-2008 passed by respondent No.2 (Motor Registration Authority Gilgit)

As the result of above discussion, we found no merit in this petition, the same is dismissed by upholding the judgment of Division Bench of Chief Court Gilgit-Baltistan dated 22-4-2009. Leave is refused.

Petition dismissed

Announced.
31-03-2010.

JUDGE

JUDGE