

**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. 51/2017
In
CPLA No.154/2016.**

Hamidullah son of Safar Ali resident of Eidgah Astore

Petitioner.

Versus

Lal Din & 12 others

Respondents.

PRESENT:-

1. Mr. Amjad Hussain Advocate alongwith Mr. Ali Nazar Khan Advocate-on-Record for the petitioner.
2. Mr. Malik Shafqat Wali senior Advocate on behalf of the respondents.

DATE OF HEARING: - 19.09.2017.

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This petition for leave to appeal has arisen out of the impugned judgment dated 06.09.2016 in Civil Revision No. 70/2008 passed by the learned Chief Court whereby the Civil Revision filed by the respondents was dismissed by maintaining the concurrent findings of the learned Courts below. The petitioner being aggrieved filed this petition for leave to appeal. This court vide order dated 14.04.2017 issued notices to the respondents and the case was heard today.

2. Briefly, the facts of the case are that the petitioner filed a Civil Suit No. 47/2004 in the court of learned Civil Judge 1st Class District Astore for declaration and permanent injunction. The petitioner/plaintiff contended in the suit that the respondents have

no right to make a pedestrian passage through the land of the petitioner by using the same as his animal track during spring seasons. Per the averments of the petitioner, the respondents have an alternate way for their pasture. The respondents denied all the averment of the plaint contending therein that the passage in question is used by them since last 20 years to take their animals to the pasture. The learned Trial Court upon hearing dismissed the Civil Suit of the petitioner being meritless vide judgment dated 30.05.2008 which was upheld up to the learned Chief Court.

3. The learned counsel for the petitioner submits that although there are concurrent findings of the learned three Courts below in favour of the respondents yet the all Courts below fell in error while passing the impugned judgments/orders. He submits that the respondents have an alternate way/passage to their pasture provided by one Sharif. Per learned counsel, the local respondents interfering into the land of the petitioner by claiming the same as their passage. He further submits that the respondents failed to prove their claim through documentary as well as oral evidence that the said passage has been used by them for last 20 years. On the directives of the learned Trial Court an inquiry committee was constituted consisting of the Revenue Officials. The committee reported that no path is available on the site as no Sketch Cloth and Masavi is found in the Revenue Record. Per learned counsel, it has been also reported in the inquiry that an alternate passage of 03 to 04 feet is existed at the site for the

animal track/passage for the respondents. During the trial of the case in the learned Chief Court it was also directed to inquire into the matter by the learned Assistant Commissioner Astore wherein he again narrated the previous report. The learned Chief Court instead of said two reports has wrongly dismissed the Civil Revision of the petitioner vide impugned judgment dated 06.09.2016 by maintaining the concurrent findings of the Courts below. He submits that the impugned judgment is not sustainable and liable to be set aside.

4. On the other hand, the learned counsel for the respondents supports the impugned judgment passed by the learned Chief Court. He contends that the disputed passage is the traditional way of the respondents which has been used for last 40 years and the petitioner is wrongly trying to interfere into it. He also contends that the petitioner failed to produce any oral as well as documentary evidence in support of his claim whereas the respondents proved their contentions through credible evidence. Per learned counsel, the learned courts below have rightly dismissed the suit of the petitioner being meritless, hence, the same are required to be maintained. He prays that the impugned judgment may pleased be affirmed.

5. We have heard the learned counsels for the respective parties at length, perused the material on record of the case and gone through the impugned judgment as well as the concurrent findings of the learned Courts below. In our considered view, the

impugned judgment as well as the concurrent findings of the learned Courts below are well reasoned and well founded, hence, no indulgence is warranted into its. Further, the learned counsel for the petitioner could not point out any infirmity in the impugned judgment.

6. In view of the above discussions, we convert this petition into an appeal and the same is dismissed. Consequently, the impugned judgment dated 06.09.2016 in Civil Revision No. 70/2008 passed by the learned Chief Court is affirmed.

7. The appeal is dismissed in above terms.

Chief Judge.

Judge.