

**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. 55/2017
In
CPLA No. 63/2014.**

Late Shah Muhammad & others

Petitioners.

Versus

Force Commander, FCNA Jutial Gilgit & others

Respondents.

PRESENT:-

1. Mr. Munir Ahmed Advocate alongwith Mr. Ali Nazar Khan Advocate-on-Record for the petitioners.
2. Mr. Muhammad Shafi senior Advocate on behalf of the respondents.

DATE OF HEARING: - 21.09.2017.

ORDER.

Dr. Rana Muhammad Shamim, CJ..... This petition for leave to appeal has arisen out of the impugned judgment dated 02.09.2013 in Civil Revision No. 11/2003 passed by the learned Chief Court whereby the Civil Revision filed by the petitioners was dismissed by upholding the concurrent findings of the learned Courts below, hence, this petition for leave to appeal. This court vide order dated 02.11.2015 issued notices to the respondents and the case is heard today.

2. The brief facts of the case are that the plaintiff filed Civil Suit No. 132/1996 in the court of learned for declaration and perpetual injunction contending therein that he is the real owner of the suit land measuring 10 Marla under Khasra No.

12402/3551/2157 vide mutation No. 13173 on the basis of allotment order dated 21.07.1996 and consequent NOC No. 103/10/PC/Q dated 15.06.1994. The plaintiff also contended that he has made certain improvements on the said lands by erecting boundary wall etc while investing handsome amount thereto. Per the averments of the plaintiff/petitioners the cancellation of allotment of the suit land by the respondents vide letter No. 258/5 dated 27.08.1996 is void and illegal. Upon hearing the said suit was dismissed being meritless vide judgment dated 29.04.2000. The said judgment of the learned Trial Court was upheld up to the learned Chief Court.

3. The learned counsel for the petitioners submits that although there are three concurrent findings of the learned Courts below against the petitioners yet the Courts below failed to appreciate the evidence and to interpret the law while passing the impugned judgments. He submits that the petitioners are the owners of the said suit land which was allotted to them by the respondents and they are in possession of the said land. He also submits that the petitioners have developed the disputed land by spending huge amount. Per learned counsel, the cancellation of the allotment order by the respondents is illegal, without lawful authority and against the allotment law/rules. He prays that the impugned judgment of the learned Chief Court and the concurrent findings of the learned Courts below may graciously be set aside by allowing this petition for leave to appeal.

4. On the other hand, the learned counsel for the respondents supports the impugned judgment and the concurrent findings of the learned Courts below. He contends that admittedly the father of the petitioners was a civilian who had been allotted 01 Kanals 11 Marla land on the basis of his blindness/disability. Later on, he again applied for the disputed land measuring 10 Marla by concealing the previous allotment. Consequently, he remained succeeded in obtaining the allotment of the disputed land through misrepresentation and fraudulently. Per learned counsel, the respondents upon knowing the above fraudulent act of the petitioner, the allotment of the disputed land was cancelled vide order dated 27.09.1996 and 30.09.1996. Whereafter the said land has been allotted to the legal heirs of the martyrs of the Northern Light Infantry (NLI) Regiment. The petitioners have no cause of action to file the suit against the respondents. He contends that the impugned judgment has been passed in accordance with law and facts of the case, therefore, the same may pleased be maintained.

5. We have heard the learned counsels for the respective parties at length, perused the material on record and gone through the impugned judgment as well as the concurrent findings of the learned Courts below. Admittedly, the disputed land was the property of Northern Light Infantry (NLI) Regiment which was allotted to the petitioners and the same allotment was recalled by the respondents due to the misrepresentation and fraud on the part of the petitioners. In our considered view, the impugned judgment

is well reasoned, therefore, no indulgence is warranted into it. Further, the learned counsel for the petitioners could not point out any illegality & infirmity in the said 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 02.09.2013 passed by the learned Chief Court is affirmed.

7. The appeal is dismissed in above terms.

Chief Judge.

Judge.