

**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. 22/2018

In

CPLA No. 132/2016

Provincial Government & others

Petitioners.

Versus

Kamous Khan & 57 others

Respondents.

PRESENT:-

1. The Advocate General Gilgit-Baltistan alongwith Mr. Saeed Iqbal, Deputy Advocate General for petitioners.
2. Mr. Shakoor Khan Advocate alongwith Mr. Muhammad Abbas Khan Advocate-on-Record for respondents.

DATE OF HEARING: - 24.05.2018.

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This petition has been directed against the impugned order dated 09.06.2016 in Civil First Appeal No. 32/2015 passed by the learned Chief Court whereby the said Civil Appeal filed by the petitioners was allowed, hence, this petition for leave to appeal. This court vide order dated 27.04.2017 issued notices to the respondents and the case is heard today.

2. Briefly, the facts of the case are that the petitioners vide award No. DK-77/2008 dated 10.01.2010 acquired the land of respondents for construction of 06 kilometers link road Darel, Dodishal and Khanbari. After announcement of the said award partial payment to the tune of Rs. 25,61,280/- was made to the

respondents while the suit amount remained outstanding. The respondents filed Civil Suit No. 118/2014 in the Court of learned Civil Judge Chilas seeking for recovery of Rs. 34, 69,927/- with compound interest at the rate of 8% per year from the acquisition of land till execution of decree. Upon hearing, the learned Trial Court decreed the said Civil Suit in favour of the respondents. Being aggrieved by and dissatisfied with said decree the petitioners filed Civil Appeal No. 25/2015 which upon hearing was returned on basis of pecuniary jurisdiction under Section 18 of Civil Court Ordinance, 1962. The petitioner being aggrieved filed Civil First Appeal No. 32/2015 before the learned Chief Court which upon hearing was allowed on payment of cost of Rs.10,000/- by the petitioners and directed the parties to appear before the learned Trial Court, hence, this petition for leave to appeal.

3. The learned Advocate General submits that the learned Trial Court fell in error while debarring the petitioners for filing the written statements as they are waiting for vetting the District Attorneys. He also submits that the written statements not filed by the petitioners are admittedly against the mandatory provisions of CPC but on appeal, the learned Chief Court restored the appeal on payment of cost of Rs. 10,000/- by the petitioners vide order dated 09.06.2016 which is against the law and rules. Per learned Advocate General, the learned Chief Court vide its said impugned order included the words “self styled proceeding” which may be expunged. He submits that the learned Courts below have failed to

apply its judicial minds while passing the impugned judgments/orders. He submits that concurrent findings of the learned Courts below may graciously be set aside by granting permission to file written statement before the learned Trial Court to defend the case on merit.

4. On the other hand, Mr. Shakoor Khan learned counsel appearing on behalf of the respondents supports the impugned order as well as the judgments/decree passed by the learned Courts below. He contends that the learned Courts below have rightly appreciated the evidence on record while passing the judgments/decree which are sustainable. He prays that concurrent findings passed by the learned Courts below may pleased be maintained being well reasoned and well founded.

We have heard the learned counsels for the respective parties at length, perused the material on record and gone through the impugned order as well as the judgments/decree passed by the learned Courts below. In our considered view, the concurrent findings passed by the learned Courts below are well reasoned and well founded. Further, the learned Advocate General also could not point out any infirmity or illegality in the well reasoned impugned order passed by the learned Chief Court, hence, interference into concurrent findings of the three Courts below is not warranted by this Court.

5. In view of the above discussions, we convert this petition into an appeal and the same is dismissed. Consequently, the

impugned order dated 09.06.2016 in Civil First Appeal No. 32/2015 passed by the learned Chief Court as well as the concurrent findings of the learned Courts below are affirmed.

6. The appeal is dismissed in above terms.

Chief Judge.

Judge.