

**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. 72/2017**

**In**

**CPLA. No. 67/2016.**

Provincial Government & others

**Petitioners.**

**Versus**

Asadullah Khan & another

**Respondents.**

**PRESENT:-**

1. The Advocate General Gilgit-Baltistan alongwith Mr. Ali Nazar Khan Advocate-on-Record for the petitioners.
2. Mr. Amjad Hussain Advocate alongwith Mr. Johar Ali advocate and Mr. Rehmat Ali Advocate-on-Record for the respondents.

**DATE OF HEARING: - 13.04.2017.**

**DATE OF ANNOUNCEMENT OF JUDGMENT: - 19.10.2017.**

**JUDGMENT.**

**Dr. Rana Muhammad Shamim, CJ.....** This petition for leave to appeal has arisen out of the impugned order dated 04.07.2016 in Civil Miscellaneous No. 232/2013 passed by the learned Chief Court whereby the petitioners were directed to allot and hand over the Government House No. E-12 situated at Konodass to the respondent NO.01 failing which the designated house of the Assistant Commissioner (BPS-17) Gilgit will be handed over to Mr. Asadullah Khan UDC BPS-09 office of the Accountability Court of Gilgit-Baltistan. The petitioners being aggrieved by and dissatisfied with filed this petition for leave to appeal. This Court vide order dated 22.07.2016 issued notices to the respondents and

the case was heard on 29.06.2017 consequently the judgment was reserved.

2. Briefly, the facts of the case are that the respondent filed a Writ Petition No. 53/2010 in the learned Chief Court which upon hearing was allowed vide order dated 25.09.2012 with the directions to the petitioners that a suitable Government Quarter be allotted to the respondent No. 02 on urgent and priority basis. Per the averments of the petitioners there was no Government quarter available to allot the same to the respondent in compliance of the order of the learned Chief Court, hence, the order could not be complied with. Meanwhile the respondent filed an implementation application in the learned Chief Court. During the pendency of the said application it was brought into the knowledge of the petitioners that a Government House No. E-12 situated at Konodass Gilgit was going to be vacated by Mr. Faisal Usman, Assistant Chief, Planning and Development Department Gilgit-Baltistan who has been allotted another House No. D-02 by the General Administration Department (GAD) Gilgit-Baltistan. Consequently the House No. E-12 situated at Konodass Gilgit was allotted to the respondent NO.02 and the same was to be handed over to him after its vacation by Mr. Faisal Usman, Assistant Chief, Planning and Development Department. Later on, the said vacant house could not be vacated by Mr. Faisal Usman, Assistant Chief, Planning and Development Department as he has not been handed over the new house by its earlier allottee, hence, the petitioners were unable to hand over the

said house to the respondent. An another Government Quarter No. E-12 was available at Hospital Road Colony and the same was allotted to the respondent No. 01 in compliance of the order of the learned Chief Court. Per learned Advocate General, the order dated 03.03.2016 passed by the learned Chief Court was complied with in its letter & spirit.

3. The learned Advocate General submits that the petitioners have already allotted House No. MG-04 to the respondent in line with the order dated 12.05.2016 passed by the learned Chief Court by vacating the same from Mr. Hawas Khan, LDC (BPS-07) serving in the office of the Election Commissioner Gilgit-Baltistan. Per learned Advocate General, the respondent refused to receive the keys of the said house and demanded for a house of his own choice which is under possession of the its previous allottee. He submits that the impugned order dated 04.07.2016 in Civil Miscellaneous No. 232/2013 passed by the learned Chief Court is not sustainable and liable to set aside being the result of misinterpretation of law and misreading/non-appreciation of the facts of the case. Per learned Advocate General, the impugned order has been passed by the learned Chief Court in violation of the House Allotment Rules as no individual /employee has the right to get allotted a House/Government Quarter on his own choice and likeness rather it is allotted as per entitlement under the rules by the competent authority subject to its availability. He prayed that the impugned order dated 04.07.2016

in Civil Miscellaneous No. 232/2013 as well as the order dated 03.03.2016 passed by the learned Chief Court may please be set aside in the interest of justice.

4. On the other hand, the learned counsel for the respondent supports the impugned order dated 04.07.2016 in Civil Misc. No. 232/2013 passed by the learned Chief Court being well reasoned and well founded. They contend that the respondent No. 01 being a low paid employee and resident of Juglote is unable to hire a private house for his family. Per learned counsels, the Government House No. E-12 situated at Konodass Gilgit was allotted to the respondent and subsequent its cancellation is based on malafide on the part of the petitioners. They contend that the respondent tried his level best to get implemented the order of the learned Chief Court by submitting several applications but in vain.

Per learned counsel, the respondent has no option except to file the implementation application in the learned Chief Court which was rightly accepted vide impugned order dated 04.07.2016 in Civil Miscellaneous No. 232/2013 . They prayed that the said impugned order may graciously be maintained to score the ends of justice.

5. We have heard the learned counsels for the respective parties at length, perused the record of the case file and gone through the impugned order dated 04.07.2016 in Civil Miscellaneous No. 232/2013 and order dated 03.03.2016 passed by the learned Chief Court. In our considered view the impugned

order dated 04.07.2016 in Civil Miscellaneous No. 232/2013 and order dated 03.03.2016 passed by the learned Chief Court are not tenable as the respondent No.1 has already been allotted a House No. MF-4 situated at Hospital Road Colony by the petitioners while implementing the earlier order of the learned Chief Court. The Government Quarters/ Houses are allotted keeping in view the entitlement of the employees as per their scales and subject to availability of the same under the permissible Rules of House Allotment etc. No government house can either be vacated or allotted to any individual on his own choice, likeness and dis-likeness.

6. In View of the above discussions, we convert this petition into an appeal and the same is allowed. Consequently, the impugned order dated 04.07.2016 in Civil Miscellaneous No. 232/2013 passed by the learned Chief Court is set aside.

7. The appeal is allowed in above terms.

**Chief Judge.**

**Judge.**