

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN,
GILGIT.
CPLA. No. 62/2011**

Before:-

- 1. Mr. Justice Rana Muhammad Arshad Khan, Chief Judge.**
- 2. Mr. Justice Muzaffar Ali, Judge.**

1. Shukoor Niaz
2. Sher Ajab Khan
3. Sher Azam Khan s/o Rustam
4. Khawaja Mir s/o Sheraz Khan
5. Muhammad Hussain s/o Sher Ajab residents of village Summal Tehsil Gupis District Ghizer.

Petitioners/Defendants

Versus

1. Abdul Aziz Alias Gojur s/o Dado r/o Sumal District Ghizer.

Plaintiff/Respondent.

2. Provincial Govt. Gilgit-Baltistan through Chief Secretary, Gilgit-Baltistan.
3. Deputy Commissioner District Ghizer.

PETITIONER FOR GRANT OF LEAVE TO APPEAL AGAINST THE JUDGMENT/ORDER DATED 10-10-2011 PASSED BY THE HON'BLE CHIEF COURT GILGIT-BALTISTAN, WHEREBY HE ACCEPTED THE PARTIAL REVISION PETITION NO. 12/2008 OF RESPONDENT NO. 1 AND DISMISSED THE PARTIAL REVISION PETITION NO. 36/2008 OF PETITIONERS.

FOR PARTIALLY SETTING ASIDE THE IMPUGNED JUDGMENT/ORDER DATED 10-10-2008 BY ACCEPTING THE APPEAL OF PETITIONERS BY GRACIOUSLY GRANTING LEAVE TO APPEAL.

Present:-

1. Advocate General Gilgit-Baltistan on behalf of Provincial Government.
2. Mr. Muhammad Issa Sr. Advocate for Petitioners/Defendants.
3. Mr. Shah Zaheer Advocate for Plaintiff/Respondent.

Dated of Hearing:- 23-10-2013.

ORDER

Mr. Justice Muzaffar Ali, J This petition for grant of leave to appeal is outcome of the facts that the present respondent no. 1 filed Suit No. 56/96, before the learned Civil Judge Puniyal/Ishkomen for claiming the subject matter of the suit to be allotted property in his possession vide allotment order dated 24-06-1947, by the competent authority bounded in the head note of

the plaintiff. He also claimed exclusive right of irrigation from “**Ghinut Spring**”.

The present petitioners opposed the suit before the learned Trial Court by filing their written statement with the contention that only two fields of land measuring about 24 kanals had been allotted to the plaintiff, but with that pretext, he encroached pasture of the village “**Summal**” as khalsa sarkar measuring about 200 kanals and he also claimed land owned and possessed by the defendants 1-2, measuring about 6 kanals. The defendants further denied the plea taken by the plaintiff about exclusive right of the irrigation from “Ghinut spring” and stated their joint rights with the plaintiff over the said spring to irrigate their respective lands.

The lower Courts up to the Court of learned District Judge of the concerned District adjudicated the dispute on merits and their findings were assailed before the honorable Chief Court Gilgit-Baltistan in appeal, wherein, the learned single judge passed the impugned judgment, hence, the instant petition for grant leave to appeal before this Court.

We heard the learned counsel for the parties at considerable length. The learned Advocate General Gilgit-Baltistan is also present on behalf of the respondents No. 2 and 3. The learned counsel for the petitioners at the very outset of the arguments abandoned all other points raised in the petition but pressed the single point and urged that the respondent No. 1 has encroached a huge chunk of the land measuring 200 kanal belonging either to the inhabitants of village Summal as **Shmilat-e-deh** or to provincial Government of Gilgit-Baltistan as **Khalsa-sarkar**, while he was entitled to possess and owned two fields of land measuring about 24 kanals by dint of the allotment order in his favour.

The learned counsel stressed that since the learned single Judge of the Chief Court ignored this legal and factual point to determine court by granting the petition for leave to appeal.

We carefully examined the above point agitated by the learned counsel for the petitioners but the same could not persuade us as it has devoid of legal substance for the reasons that :-

(a). The learned counsel for the petitioners himself concedes that no land of the petitioners has been encroached by the respondent No. 1 as such the petitioners have no locus standee to ask the Courts of Law to make an order of ejectment of respondent No. 1 from excess land, if any, in possession of the respondent No.1.

(b). The petitioners are defendants in the suit which has been filed by the respondents No.1 for restraining the present petitioners from interference into the land occupied by the respondent No.1 and no suit has been filed by the petitioners to get a decree of dispossession of the respondent No. 1 from any land encroached by the defendant No. 1 as such under Law no decree of dispossession/ejectment against the respondent No. 1 in favour of the petitioners can be passed, even, if it is proved that the respondent No. 1 is encroacher of the land.

(c). It is evident from the version of the counsel for the petitioners that the alleged encroached land in possession of the respondent No. 1 belongs either to the Provincial Government or to the inhabitants of the village Summal and the petitioners are neither representative of the people of the village nor they represent Provincial Government. The Provincial Government has been impleaded and arrayed in the list of the defendants by the learned Additional District Judge concerned, but Government has not bothered to assail the impugned Judgment/Decree before this Court as such the petitioners have listed the Provincial Government as respondents 2 and 3 in the petition.

The upshot of the above discussion is that the petitioners hopelessly failed to point out any important legal aspect against the impugned Judgment, hence, the petition for grant of leave to appeal is refused. No order as to cost.

Chief Judge

Judge