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JUDGMENT SHEET
IN THE LAHORE HIGH COURT AT LAHORE
JUDICIAL DEPARTMENT

CIVIL REVISION NO. 2488 OF 2003.

(Province of Punjab vs. Muhammad Ikram, etc.)

J U D G M E N T

Date of hearing 06:09:2010.
Petitioner by Mr. Shakeel-ur-Rehman Khan,
Additional Advocate-General
Punjab, Lahore.
Respondents by Nemo.

NASIR SAEED SHEIKH, J:- This civil revision is directed against the judgment and decree dated 27.05.2003, passed by the learned Additional District Judge, Bhakkar, whereby the appeal preferred by the respondents against the dismissal of their suit by the learned Civil Judge vide judgment and decree dated 31.01.2003 was accepted and the judgment and decree of the learned Civil Judge was set-aside.

2. Briefly stating the facts of the case are that the predecessor-in-interest of the respondents Alam Khan son of Karim Bakhsh was allotted land measuring 120 kanals under Rehabilitation Scheme by the Government of Punjab. Admittedly, the Government of Punjab allotted 120 kanals of land to the respondents and received the entire sale price from the predecessor-in-interest of the respondents. However, at the time of making the allotment

only 113 kanals, 14 marlas of land was transferred to him and 6 kanals, 6 marlas of land in Khata No.206, Khatooni No.376, Khasra No.138 was granted to the predecessor-in-interest of the respondents. The suit was instituted for declaration to the effect that this deprivation to the predecessor-in-interest of the respondents of land measuring 6 kanals, 6 marlas by the Provincial Government is illegal and without lawful authority.

3. The suit was contested by the petitioner by submitting written-statement. In the written-statement, it was admitted that the predecessor-in-interest of the respondents was allotted land measuring 113 kanals, 14 marlas.

4. The learned Civil Judge framed the following issues:-

ISSUES.

1. *Whether total area of disputed lot No.5 was 120 kanals? OPP.*
2. *Whether area of disputed lot No.5 was illegally reduced from 120 kanals to 113 kanals 14 marlas? OPP.*
3. *Whether plaintiffs fulfilled all the terms and conditions necessary for the grant of proprietary rights regarding disputed lot? OPP.*
4. *Whether plaintiffs were entitled to get proprietary rights of total land measuring 120 kanals and not 113 kanals 14 marlas? OPP.*
5. *Whether the plaintiffs are owners in possession of disputed land? OPP.*

6. *Whether plaintiffs are entitled to declaration and permanent injunction as claimed in the plaint? OPP.*
7. *Whether plaintiffs have got no cause of action? OPD.*
8. *Whether plaintiffs are estopped by their act and conduct to file this suit? OPD.*
9. *Whether this court lacks jurisdiction? OPD.*
10. *Whether plaintiffs are not in possession of suit land, hence, this suit is liable to be dismissed? OPD.*
11. Relief.

5. The parties produced their respective evidence. The learned Civil Judge dismissed the suit of the respondents vide judgment and decree dated 31.01.2003. The respondents preferred an appeal against the said judgment and decree, which appeal came up for hearing before a learned Additional District Judge, Bhakkar, who vide judgment and decree dated 27.05.2003 accepted the appeal of the respondents, set-aside the judgment and decree of the learned Civil Judge and decreed the suit of the respondents as prayed for.

6. This civil revision has been filed against the judgment and decree dated 27.05.2003, passed by the learned Additional District Judge, Bhakkar.

7. It is contended by the learned Additional Advocate-General that the impugned judgment and decree

is against facts and law and is not sustainable as such. While elaborating his points, the learned Additional Advocate-General submits that the land measuring 6 kanals, 6 marlas was not allotted to the respondents as it was a *Ghair Mumkin Parao*.

8. The respondents are not present today inspite of their service. They are therefore proceeded against *ex-parte*.

9. I have heard the arguments of the learned Additional Advocate-General and perused the record.

10. The learned Additional Advocate-General could not refer to any document on the basis of which this contention as being raised by the learned Additional Advocate-General can be supported rather the petitioner produced (DW.1) Hussain Ali Shah, Colony Clerk, Rehabilitation Scheme and admitted that 120 kanals of land was allotted to Alam Khan son of Karim Bakhsh, the predecessor-in-interest of the respondents and inspite of the said allotment 113 kanals, 14 marlas of land was allotted to the predecessor-in-interest of the respondents. It is only in his evidence that (DW.1) stated that 6 kanals, 9 marlas of land was not allotted to the predecessor-in-interest of the respondents as it was a *Ghair Mumkin Parao*. No document in support of this contention was further produced by the petitioner. It was further noted down that even on the revenue side, the predecessor-in-interest of the respondents have been agitating the matter for the redress of his grievance and it was a matter of record as stated by (DW.1) in his cross-examination that the matter was referred to the Commissioner

Rehabilitation. The report Mark-B is also relevant to that effect that on the revenue side, this matter was still *sub-judice* at that time before the Deputy Commissioner, Bhakkar.

11. The learned Additional District Judge observed that the plea taken by the Government that the land measuring 6 kanals, 6 marlas was not allotted to the predecessor-in-interest of the respondents on the ground that it was *Ghair Mumkin Parao* was not taken in the written-statement, therefore no evidence can be led in support of this contention. This finding of the learned Additional District Judge is in accordance with law. However, when I perused the record with the assistance of the learned Additional District Judge, I do not find any document in support of this contention that the land measuring 6 kanals, 6 marlas was *Ghair Mumkin Parao* and was not being allotted to the predecessor-in-interest of the respondents, the price of which was received by the Government before the allotment.

12. In view of all the above circumstances, I do not find any illegality in the impugned judgment and decree dated 27.05.2003, passed by the learned Additional District Judge. No other point has been argued. This civil revision is without any merits and is **DISMISSED** with no orders as to costs.

(Nasir Saeed Sheikh)
JUDGE.

M.AYOUB