

IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN
CPLA No. 11/2010

Muhammad Ghafar s/o Ziarat Gul Through legal heirs (i) Muhammad Jalal (ii) Muhammad Amir (iii) Muhammad Aziz Sons (iv) Mst Sifat Bibi (v) Bibi Roshan Daughters of deceased Muhammad Ghafar. 2. Islam Khan s/o Khudayar, 3. Shermar Bahadur s/o Afzal Khan, 4. Saif-ur-Rehman s/o Abdul Qayyum r/o Birgal Tehsil Ishkoman District Ghizar.

Petitioners.

Versus

Zamindaran Birgal through representatives, 1. Rehmat Alam s/o Rehmat Khan, 2. Ali Dad s/o Alam r/o Birgal Tehsil Ishkoman District Ghizer.

Respondents.

**PETITION FOR LEAVE TO APPEAL AGAINST
THE ORDER DATED 25-03-2010 PASSED BY
THE CHIEF JUDGE CHIEF COURT GILGIT
BALTISTAN.**

Muhammad Hussain Shehzad Advocate for petitioner.

Date of hearing : 06-05-2010

Order

Justice Muhammad Nawaz Abbasi, CJ: This petition has been directed against the order dated 25-03-2010 passed by the Chief Court in a Civil Revision arising out of an application under Order 21 Rule 15 read with Section 115 CPC by virtue of which the petitioner sought execution of the compromise decree passed in a representative suit involving the dispute in respect of Shamlat Land. The learned counsel for the petitioner has contended that the decree in such a suit is deemed to have been passed in favour of all co-owners/co-sharers in the propriety body of village and since the subject matter of the suit was shamlat land which was joint property of all the owners in the village therefore the decree was joint for the purpose of execution and the Chief Court without appreciating the correct legal position illegally dismissed the

Revision Petition with observation that decree was not executable as joint decree.

The learned Counsel during the course of arguments has submitted that notwithstanding the fact that compromise decree has already been executed the petitioners being the joint owners of the suit land would be entitled to the possession of land of their share, therefore, the application under Order 21 Rule 15 CPC was maintainable.

The petitioners on the basis of their ownership in the village have claimed possession of land of their share of the Shamlat Land subject matter of suit seeking execution of the executed decree passed in a suit in which they were not party.

The learned counsel for the petitioners when pointed out that a stranger in the suit without determination of his right in the suit property would have no locus standi to claim such right in execution proceedings and in any case, the decree in question may not fall within the definition of joint decree in terms of Order 21 Rule 15 CPC, for the purpose of execution he without further pressing this petition before us has submitted that petitioners will avail the appropriate remedy before the proper forum for the possession of land of their share. In view thereof this petition is dismissed as not pressed.

Chief Judge

Judge