

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN,  
GILGIT.**

**Before:-**

**Mr. Justice Dr. Rana Muhammad Shamim, Chief Judge.  
Mr. Justice Javed Iqbal, Judge.  
Mr. Justice Shahbaz Khan, Judge.**

**C. Misc. No. 22/2016**

**in**

**CPLA. No. 26/2016.**

1. Mehboob Riaz son of Qabool R/o Niat Thak District Diamer at present SIP Police Station Gunar Farm, District Diamer.

**Petitioner.**

**Versus**

1. Fiyaz Ahmed son of Muhammad Rafique, R/o Goharabad Head Constable Police Station Tangir District Diamer.

2. Provincial Government through Chief Sectary, Gilgit-Baltistan.

3. Deputy Commissioner/Chairman House Allotment Committee Chilas.

4. Additional Deputy Commissioner Chilas, District Diamer.

5. Assistant Commissioner Chilas, District Diamer.

6. Tehsildar Head Quarter Chilas.

7. Accounts Officer AGPR Chilas, District Diamer.

**Respondents.**

**CIVIL PETITION FOR LEAVE TO APPEAL UNDER ARTICLE F60 OF GILGIT-BALTISTAN (EMPOWERMENT & SELF GOVERNANCE) ORDER, 2009 AGAINST THE IMPUGNED JUDGMENT/ORDER DATED 03.03.2016 PASSED BY THE LEARNED GILGIT-BALTISTAN CHIEF COURT IN CIVIL REVISION NO. 141/2015 WHEREBY ACCEPTING THE REVISION PETITION JUDGMENT/DECREE DATED 19.12.2015 PASSED BY THE LEARNED DISTRICT JUDGE CHILAS DISTRICT DIAMER AND JUDGMENT/DECREE DATED 07.12.2015 PASSED BY THE LEARNED CIVIL JUDGE DISTRICT DIAMER HAVE BEEN SET ASIDE/ADVERSED.**

**PRESENT:-**

1. Mr. Malik Shafqat Wali senior Advocate alongwith Mr. Ali Nazar Khan Advocate-on-Record for the petitioner.

2. The Advocate General Gilgit-Baltistan on behalf of the Provincial Government.

3. Mr. Asadullah Khan Advocate on behalf of the respondent No. 01.

**DATE OF HEARING: - 06.06.2016.**

**DATE OF DETAIL JUDGMENT:- 21.07.2016.**

**JUDGMENT.**

**Dr. Rana Muhammad Shamim, CJ.....** This petition has been directed against the impugned judgment/order dated 03.03.2016 passed by the learned Gilgit-Baltistan Chief Court, whereby the Civil Revision No. 141/2015 filed by the respondent was allowed while setting aside the order dated 19.12.2015 in Civil First Appeal No. 41/2015 passed by the learned District Judge Diamer wherein the Civil First Appeal filed by the respondent was dismissed by maintaining the order dated 07.12.2015 in Civil Suit No. 62/2015 of the learned Civil Judge 1<sup>st</sup> Class Chilas. The petitioner being aggrieved filed this petition for leave to appeal to set aside the impugned judgment/order dated 03.03.2016 passed by the learned Gilgit-Baltistan Chief Court while maintaining the judgments/orders passed by the courts below.

**2.** The brief facts of the case are that the respondent No. 01/Plaintiff filed a Civil Suit No. 62/2015 in the court of learned Civil Judge 1<sup>st</sup> Class Chilas District Diamer for declaration etc with the contention that he was allotted Government Quarter bearing No. F-9 in Government Colony Harpan Dass Chilas on 06.08.2015 which upon hearing was dismissed vide order dated 07.012.2015. The respondent No. 01being aggrieved filed Civil First Appeal No. 41/2015 before the learned District Judge Diamer which upon hearing was dismissed being meritless vide judgment dated 19.12.2015.

The respondent No. 01 feeling aggrieved filed Civil Revision No. 141/2015 before the learned Gilgit-Baltistan Chief Court, wherein the said Revision Petition of the respondent No. 01 was allowed while setting aside the impugned orders of the courts below i.e. dated 19.12.2015 of the First Appellate Court and 07.12.2015 of the learned Trial Court. The petitioner being aggrieved by and dissatisfied with filed this petition for leave to appeal. This court vide order 24.03.2016 issued notices to the respondents for their appearance and the case was heard on 06.06.2016.

**3.** The learned counsel for the petitioner submits that the respondent/plaintiff filed a Civil Suit No. 62/2015 in the court of learned Civil Judge Chilas for declaration. He further submits that upon hearing, the learned Civil Judge Chilas dismissed the suit vide order dated 07.12.2015. He further submits that feeling aggrieved by and dissatisfied with the said order filed Civil First Appeal No. 41/2015 before the learned District Judge Diamer. He further submits that the learned District Judge Diamer through judgment dated 19.12.2015 dismissed the appeal declaring the same meritless and upheld the order of the learned Civil Judge Chilas District Diamer. He further submits that the respondent No. 02 to 05 allotted the suit Government house in favour of the respondent No. 01 initially. Later on the respondent No. 01 was posted to Tangir and the respondent No. 02 to 05 being the competent

authorities allotted the said house in favour of the petitioner being entitled for the said house. He further submits that the learned Trial Court as well as the learned First Appellate Court have rightly dismissed the appeal of the respondent No. 01 whereas the learned Gilgit-Baltistan Chief Court has wrongly and without applying its judicial mind set aside the judgments/orders of the courts below vide judgment dated 03.03.2016 in Civil Revision No. 141/2015 which is not tenable being the result of misconception of law and misreading/non-reading of the facts of the case. He prayed that the impugned judgment may very graciously be set aside to meet the ends of justice.

**4.** On the other hand, Mr. Asadullah Khan learned counsel for the respondent No. 01 alongwith the learned Advocate General support the impugned judgment dated 03.03.2016 in Civil Revision No. 141/2015 passed by the learned Gilgit-Baltistan Chief Court. They contend that the Government Quarter No. F-9 situated at Harpan Dass Chilas was allotted to the respondent No. 01 by the competent authority vide allotment order No. Dev. 84/2014 dated 06.08.2015 but the same allotment order was illegally cancelled vide impugned office order No. Dev. 84/2015 dated 20.08.2015 which was required to be set aside but the learned Civil Judge did not reversed the same while applying its judicial mind and has wrongly dismissed the Civil Suit of the

respondent No. 01 which was upheld by the learned District Judge Chilas Diamer. They further contend that the learned Gilgit-Baltistan Chief Court has rightly and in accordance with the law and facts of the case allowed the Revision Petition No. 141/2015 which is required to be maintained being well reasoned and well founded.

**5.** We have heard the learned counsels for respective parties at length, perused the record of the case file and gone through the impugned judgment dated 03.03.2016 in Civil Revision No. 141/2015 passed by the learned Gilgit-Baltistan Chief Court as well as the judgments/orders passed by the learned courts below. Admittedly the suit quarter is a Government House which was initially allotted to the respondent No. 01 but later on the same was allotted to the petitioner by the competent authorities. The respondent No. 01 has been posted out to another Tehsil who was residing in the said house as tenant, therefore, he cannot retain the said house situated at Tehsil Chilas. The competent authorities have rightly cancelled the allotment order of the said house in his favour.

**6.** In view of the above discussions, we converted this petition into an appeal and the same was allowed vide our short order dated 06.06.2016. Consequently, the impugned judgment dated 03.03.2016 in Civil Revision No. 141/2015 passed by the learned Gilgit-Baltistan Chief Court

was set aside whereas the judgment dated 19.12.2015 in Civil First Appeal No. 41/2015 of the learned District Judge Diamer as well as the order dated 07.12.2015 in Civil Suit No. 62/2015 of the learned Civil Judge 1<sup>st</sup> Class Chilas were maintained being well reasoned. The learned Trial Court was directed to proceed with the Civil Suit No. 62/2015 expeditiously and decide the case in its own merit without influencing of any observation made by the Appellate Court, Revisional Court or by this court. These were the reasons for our short order dated 06.06.2016.

**7.** The petition is allowed in above terms.

**Chief Judge.**

**Judge.**

**Judge.**

**Whether the case is fit to be reported or not?**