

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

Before:-

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

CPLA No. 58/2014.

1. Nazim, 2. Akram (Late) through legal heirs, i. Mst Gul Zarin, ii. Nusrat, iii. Basharat, iv. Aslam, v. Karamat, vi. Barkat, vii. Waqar, viii Naveeda, ix. Kainat sons & daughters of late Akram, 3. Muhammad Aziz son of Muhammad Nabi.

Petitioners.

Versus

1. Muhammad Musa son of Ahmed Joo.
2. Haji Fareedullah son of Abdul Hamid.
3. Sultan Aziz son of Ahmed Joo r/o Napura Basin Gilgit Tehsil & District Gilgit.

Respondents.

PRESENT:-

1. Mr. Amjad Husain Advocate alongwith Mr. Ali Nazar Khan Advocate-on-Record for the petitioners.
2. Mr. Muhammad Hussain Shehzad Advocate on behalf of the respondents.

DATE OF HEARING: - 19.09.2016.

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This petition has arisen out of the impugned judgment dated 10.10.2013 in Civil Revision No. 64/2008 passed by the learned Gilgit-Baltistan Chief Court, whereby the Civil Revision No. 64/2008 filed by the petitioners was dismissed by maintaining the concurrent findings of the learned courts below.

2. The precise facts of the case are that the respondent/plaintiff No. 01 mortgaged the disputed property with the respondent No. 02 against a sum of Rs. 21000/- under Khasra No. 18/131128/2 measuring six (06) Kanals through a deed executed on 24.01.1994. The respondent No. 01 failed to pay the debt amount to the respondent No. 02 within a stipulated time. Upon failure of the said amount, the mortgaged land was

transferred through sale between the petitioners and respondent No. 02. The respondent No. 01 being aggrieved filed Civil Suit No. 159/98 before the learned Civil Judge 1st Class Gilgit for redemption and possession thereto which upon hearing was decreed in favour of the plaintiff subject to payment of Rs. 18000/-. The respondents being aggrieved filed Civil First Appeal No. 110/2006 before the learned District Judge Gilgit which upon hearing was dismissed vide judgment dated 30.06.2008. The learned Gilgit-Baltistan Chief Court also dismissed the Civil Revision being meritless.

3. The learned counsel for the petitioners submits that the respondent No.01 mortgaged his immovable property ad measuring six (06) Kanals with the respondent No. 02 against a loan amount of Rs. 21000/- vide agreement dated 24.01.1984. He also submits that the respondent No. 01 failed to pay the said amount within the stipulated time as per agreed terms, hence, the respondent No. 02 become the real owner of the land and he being the owner sold the said land to the petitioners. He also submits the petitioners sold out one Kanal land out of the disputed land to one Muhammad Sharif, one Kanal to Muhammad Aziz and one Kanal to Akram and two Kanals to Nazim Muhammad petitioner No. 01, 02 and 03 respectively. The petitioners after purchasing the land in question developed the same while constructing residential house over it and at the time of cultivation/development of the suit land no objection raised by the respondents. He further submits that

after a considerable period of time the respondents filed Civil Suit before the learned Trial Court which was wrongly decreed in favour of the respondents which was upheld by the First Appellate Court as well as the learned Gilgit-Baltistan Chief Court. He finally argued that all the three courts below have failed to apply their judicial mind in deciding the matter in question, hence, the impugned judgment dated 10.10.2013 passed by the learned Gilgit-Baltistan Chief Court as well as the judgments of the courts below are not sustainable.

4. Conversely, the learned counsel for the respondents supports the impugned judgment passed by the learned Gilgit-Baltistan Chief Court. He submits that once a mortgage always a mortgage. He also contends that the petitioners were well aware about the transaction of the suit land who malafidely entered into the illegal purchase of the land in question. The responsibility of such illegal transactions fall upon the petitioners as the respondents cannot be held accountable for such illegal deal. He finally contends that the impugned judgment dated 10.10.2013 of the learned Gilgit-Baltistan Chief Court as well as the judgments passed by the learned courts below are well reasoned and well founded which are required to 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 judgment dated 10.10.2013 passed by the

learned Gilgit-Baltistan Chief Court as well as the judgments of the courts below. The learned counsel for the petitioners could not point out any illegality and infirmity in the impugned judgment. In our considered view the impugned judgment is well reasoned and well founded being passed in accordance with law and facts of the case and no interference is warranted.

6. In view of the above discussions, we convert this petition into an appeal and the same is dismissed. Consequently, the impugned judgment dated 10.10.2013 passed by the learned Gilgit-Baltistan Chief Court is maintained.

7. The petition is dismissed in above terms.

Chief Judge.

Judge.

Whether the case is fit to be reported or not?