

IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN,

GILGIT.

Before:-

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

C. Misc. No. 50/2014

in

Cr. PLA. No. 62/2014.

1. Shaban Ali & 08 others

Petitioners.

Versus

1. Mst. Zainaba & 06 others

Respondents.

PRESENT:-

1. Mr. Muhammad Issa senior Advocate alongwith Mr. Johar Ali Khan Advocate-on-Record for the petitioners.
2. Mr. Manzoor Ahmed Advocate alongwith Mr. Rehmat Ali Advocate-on-Record on behalf of the respondents.

DATE OF HEARING: - 23.11.2016.

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This petition has arisen out of the impugned judgment dated 10.10.2013 in Civil Revision No. 18/2003 passed by the learned Chief Court whereby the Civil Revision of the petitioners was dismissed by the learned Gilgit-Baltistan Chief Court being meritless, hence, this petition for leave to appeal.

2. Briefly facts of the case are that respondent Mst. Zainaba is the widow of Mr. Shafa Ali, while respondents Mst. Nargis, Mst. Hoori and Mst. Mansoori are daughters of Mr. Shafa Ali father of petitioner. The respondents, Mr. Walayat Ali is husband of Mst. Sheher Bano and Mst. Sheher

Bano is daughter of Shafa Ali. The relationship between the parties is not disputed. Mr. Shafa Ali father of present petitioner had a real brother namely Mr. Shukoor Ali who had 02 sons Mr. Ibrahim and Mr. Abdullah. Mr. Abdullah went to Sari Nagar when his age was about 17 or 18 years and is since then they are residing there. In the absence of Mr. Ibrahim, his share in the property of his father remained in possession of Mr. Abdullah. Later on, the said Abdullah died issueless. The property of Mr. Shukoor Ali, being real brother came in possession of Mr. Shafa Ali. Whereafter Mr. Shafa Ali also died, therefore, respondents are entitled to their Sharie share in the suit property. The present petitioner through his written statement contested the suit and averred that his father (Shafa Ali) gifted his property to petitioner while share of Mr. Shukoor Ali remained in Amanat with his father (Shafa Ali) and then with him. It is not disputed that the landed suit property is comprised of the property of Mr. Ibrahim and Mr. Abdullah as well as of Mr. Shafa Ali. It is also not disputed that parties to case are legal heirs of the said three persons i.e. Mr. Shafa Ali, MR. Ibrahim and Mr. Abdullah but the only question for determination is whether respondents were deprived from their Sharie share in the suit property through a valid gift?

3. The learned counsel for the petitioners submits that the respondents filed Civil Suit No. 105/1990 against

the petitioners for declaration and possession of the suit land on the basis of gift and as alternative their Sharie Share before the learned Civil Judge 1st Class Gilgit which upon hearing was decreed to the extent of 4/7th share vide judgment/decreed dated 23.11.1996. The petitioners being aggrieved filed Civil Appeal. No 53/1996 before the learned District Judge Gilgit which upon hearing was dismissed vide judgment dated 28.04.2003. The petitioners being aggrieved by and dissatisfied with the concurrent findings of both the judgments/decrees filed Civil Revision No. 18/2003 before the learned Gilgit-Baltistan Chief Court which was also dismissed vide impugned judgment dated 10.10.2013, hence, this petition for leave to appeal.

4. He further submits that the respondents have categorically admitted the factum of gift given by Abdullah in favour of his uncle Shafa Ali but the learned Courts below had overlooked the admission of respondents and had taken the wrong inferences from the contents of plaint as trustee. He also submits that the learned District Judge has failed to exercise its jurisdiction according to provisions of Order 41 Rule 31 CPC. He further submits that the learned Gilgit-Baltistan Chief Court has illegally upheld the same. He finally submits that the said impugned judgment passed by the learned Gilgit-Baltistan Chief Court is the result of mis-interpretation of law and misreading/non-reading of the

evidence and facts of case, therefore, the same is not tenable and liable to be set aside.

5. On the other hand the learned counsel appearing on behalf of the respondents supports the impugned Judgment dated 10.10.2013 passed by the learned Gilgit-Baltistan Chief Court. He contends that the same has been passed in accordance with law and facts of the case, hence, the said impugned judgment may graciously be maintained being well reasoned and well founded. No interference is warranted into it to meet the ends of justice.

6. 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 concurrent findings of the courts below. The learned counsel for the petitioners could not point out any illegality and infirmity in the impugned judgment passed by the learned Gilgit-Baltistan Chief Court.

7. 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 as well as the concurrent findings of the courts below are maintained.

8. The appeal is dismissed in above terms.

Chief Judge.

Judge.

Whether the case is Fit to be reported or Not?