

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN,
REGISTRY BRANCH SKARDU.**

Before:-

Mr. Justice Dr. Rana Muhammad Shamim, Chief Judge.

Mr. Justice Javed Iqbal, Judge.

Mr. Justice Shahbaz Khan, Judge.

Civil Appeal No. 01/2014.

In

CPLA No. 03/2013.

1. Wazir Ali s/o Wazir Ghulam Abbas 2. Wazir Ghulam Mohammad s/o Wazir Ghulam Ali. 3. Wazir Mohammad Kazim s/o Wazir Abdul Hussain 4. Wazir Shujaat Hussain s/o Wazir Hussain 5. Bashir Ahmed 6. Mohammad Iqbal s/o Mohammad Hassan 7. Mst Batool 8. Roqia d/o Mohammad Hassan r/o Wazir Gond Pari Kharmang district Skardu.

Petitioners/Plaintiffs

Versus

Residents of Mohallah Bottichow Pari, Tehsil kharmang, District Skardu through representatives 1. Ghulam Abbas s/o Abdul Hassan 2. Ghulam Abbas s/o Abdullah r/o Mohallah Bottichow Kharmang Pari, presently residing at Jafari Mohallah Skardu.

Respondents/Defendants.

PETITION FOR GRANT OF LEAVE TO APPEAL AGAINST THE JUDGMENT/ORDER DATED 17.08.2013 PASSED BY THE CHIEF COURT GILGIT-BALTISTAN CAMP AT SKARDU WHEREBY THE HON'BLE CHIEF COURT GILGIT-BALTISTAN HAS SET ASIDE THE JUDGMENT/ORDER OF THE LEARNED DISTRICT COURT SKARDU DATED 19.11.2012 AND MAINTAINED THE CIVIL COURT KHARMANG JUDGMENT DATED 10.03.2012 AS THE LEARNED TRIAL COURT REJECTED THE PETITIONERS SUIT UNDER ORDER-7 RULE 11 CPC THROUGHOUT.

Present:-

1. Mr. Muhammad Issa, Sr. Advocate alongwith Mr. Ali Khan, AoR for the petitioners.

2. Mr. Muhammad Iqbal, Advocate for the respondents.

DATE OF HEARING: - 24.05.2016.

DATE OF DETAIL JUDGMENT:- 17.06.2016.

ORDER.

Dr. Rana Muhammad Shamim, CJ..... This petition for leave to appeal has been directed against the impugned

judgment/order dated 17.08.2013 in Civil Revision No. 03/2013 passed by the learned Chief Court whereby the same revision petition of the petitioners was dismissed while setting aside the judgment/decreed dated 19.11.2012 in CFA No. 03/2012, passed by the District Judge, Skardu whereas the judgment/decreed dated 10.03.2012 of the learned trial Court was maintained.

2. Mr. Muhammad Issa, learned Senior Counsel for the petitioners submits that the respondent filed a civil suit No.40/98 in the Court of learned Civil Judge First Class Skardu in the year 1998 with the contention that the respondents were entitled to get water of Nallah Gorkon by storing it in the ponds situated at Bottichow in night times and irrigate their crops fields during day time through channel Bottichow. He further submits that the respondents/plaintiffs are not entitled to get irrigation water for their land from Wazir Gond and Goi Shanjaq from Nallah Gorkon during night time through Channel "Monikhrong and Channel Goi Shanjaq". The learned Civil Court framed seventeen (17) issues in the said suit and upon hearing partially decreed the suit in favour of the petitioners while maintaining the order dated 20.08.1962 issued by the then Political Agent Baltistan Region vide judgment dated 15.08.2001. He further submits that during pendency of the Suit No. 14/2015 parties referred the case for arbitration and in this regard the Suit was disposed off on 15.12.2006 on the basis of arbitrator award dated 27.09.2006 after making the same as rule of the court. The petitioners being aggrieved with the arbitrator's

award dated 27.09.2006 challenged the same before the learned District Judge Skardu who upon hearing accepted the appeal of the petitioners vide order dated 19.11.2012 while remanding the case to the learned Trial Court for disposal on merit. The respondents being aggrieved filed Civil Revision No. 03/2013 before the learned Chief Court Gilgit-Baltistan wherein the said Civil Revision filed by the respondents was accepted vide judgment dated 17.08.2013 while setting aside the order dated 19.11.2012 and maintaining the judgment/decreed dated 10.03.2012 of the learned Trial Court, hence, this petition for leave to appeal. He finally submits that the impugned judgment dated 17.08.2013 passed by the learned Chief Court Gilgit-Baltistan is the result of misconception of law and misreading/non-reading of the facts of the case, therefore, the same is not sustainable and liable to be set aside whereas the judgment/decreed dated 19.11.2012 passed by the learned District Judge Skardu was well reasoned and well founded which is require to be upheld in the interest of justice.

3. On the other hand Mr. Muhammad Iqbal learned counsel for the respondents supports the impugned judgment dated 17.08.2013 passed by the learned Chief Court Gilgit-Baltistan. He submits that the same has been passed in accordance with the law and facts of the case while the judgment dated 19.11.2012 passed by the learned District Judge Skardu was not tenable being not well reasoned and the same has rightly been reversed by the learned Chief Court through the impugned judgment.

4. 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 17.08.2013 passed by the learned Chief Court Gilgit-Baltistan as well as the judgments/decrees passed by the courts below. We are in agreement with the learned counsel for the petitioners. Consequently, we converted this petition into an appeal and the same was allowed vide our short order dated 24.05.2016. The case was remanded back to the learned Trial Court Kharmang to hear and decide the same afresh on its own merit. Consequent thereto the impugned judgment 17.08.2013 in Civil Revision No. 03/2013 passed by the learned Chief Court Gilgit-Baltistan is set aside whereas the judgment dated 19.11.2012 in CFA No. 03/2012 passed by the learned District Judge Skardu is maintained. There were the reasons for our order dated 24.05.2016.

5. The petition is disposed off in above terms.

Chief Judge.

Judge.

Judge.

Whether the case is fit to be reported or not?