THE FEDERAL CONSTITUTIONAL COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:
JUSTICE SYED HASAN AZHAR RIZVI
JUSTICE MUHAMMAD KARIM KHAN AGHA

C.P.L.A. No. 2259-L/2024
(Against the judgment dated 17.10.2024 passed by the Lahore High Court, Lahore in W.P. No. 40242/2022)

Maqbool Ahmed, etc. ...*Petitioner(s)*

Versus

Ume Laila, etc. ...*Respondent(s)*

For the Petitioner(s):	Mr. Muhammad Mumtaz Ali, ASC Petitioner No. 1 In-Person
For the Respondent(s):	N.R.
Date of Hearing:	17.11.2026

J U D G M E N T

Syed Hasan Azhar Rizvi, J.- Through Civil Petition for Leave to Appeal C.P.L.A No. 2259-L of 2024 originated before the Supreme Court under Article 185(3) of the Constitution of the Islamic Republic of Pakistan, 1973 **("Constitution"),** Petitioners seek leave to appeal against the judgment dated 17.10.2024 **("Impugned Judgment")** passed by the learned Single Judge of the Lahore High Court **("High Court")** in Writ Petition No. 40242/2022. By virtue of the impugned judgment, the writ petition filed by Respondent No. 1 (Ume Laila) was allowed, the order dated 16.02.2022 passed by the learned Member (Judicial-VIII), Board of Revenue, Punjab was set aside, and the earlier administrative orders dated 24.04.2018 (passed by the Assistant Commissioner/Collector, Gojra) and 12.03.2019 (passed by the Additional Commissioner Consolidation, Faisalabad Division) cancelling oral sale Mutation No. 1576 dated 28.07.2013 were upheld.

2. Relevant facts, briefly stated, are that Respondent No. 1 (Ume Laila) is the daughter of Mureed Abbas, who was the owner of land measuring 17 Kanals 16 Marlas situated at Chak No. 348/J.B., Tehsil Gojra, District Toba Tek Singh. Following the demise of Mureed Abbas in the year 2000, the inheritance mutation was duly incorporated in favour of Respondent No. 1 and her sisters.

3. The present Petitioners (Maqbool Ahmed and others), who were tenants on the subject property, allegedly colluded with the field revenue staff to get an oral sale Mutation No. 1576 dated 28.07.2013 sanctioned in their favour in respect of the entire land. Aggrieved thereby, Respondent No. 1 moved an application before the Assistant Commissioner/Collector, Gojra, for cancellation of the said mutation, asserting that she had neither sold the land, or received consideration money, or ever appeared before any Revenue Officer. By order dated 30.01.2018, the Assistant Commissioner directed her to approach the Civil Court. However, upon a review application by Respondent No. 1, Naib Tehsildar Rashid Mehmood Arshad recorded an official statement on 27.03.2018 testifying that he had neither recorded any statement of the parties, or had the parties appeared before him, and that the Patwari Halqa had written the order and forged his signatures on the mutation.

4. Consequently, vide order dated 24.04.2018, the Assistant Commissioner recalled his earlier order dated 30.01.2018 and cancelled Mutation No. 1576 issued in favour of Petitioner No. 1. An appeal filed by the Petitioners against the cancellation order was dismissed by the Additional Commissioner (Consolidation), Faisalabad Division on 12.03.2019.

5. Thereafter, the Petitioners filed Revision Petition (ROR No. 449/2019), which was accepted by the Member (Judicial-VIII), Board of Revenue, Punjab vide order dated 16.02.2022, restoring the initial order dated 30.01.2018 and directing Respondent No. 1 to approach the Civil Court.

6. Being aggrieved, Respondent No. 1 invoked the constitutional jurisdiction of the High Court through W.P. No. 40242/2022, which was allowed vide the impugned judgment dated 17.10.2024, prompting the

Petitioners to institute the present petition. The operative part of the impugned judgment is reproduced hereunder for ease of reference:

> *"5. But the Member Board of Revenue without taking into consideration the above significant material documents as well as the statement of the Tehsildar and report of Patwari concerned has passed patently a perverse and illegal order which is not sustainable in the eyes of law and liable to be set-aside. Reliance is placed on the case titled as Nazim-ud-Din and Others v. Sheikh Zia-Ul-Qamar and Others (2016 SCMR 24)."*
> *"6. In view of above, this writ petition is allowed. Order dated 16.02.2022 passed by the Member (Judicial-VIII), Board of Revenue, Punjab is hereby set aside and order of the Additional Commissioner as well as that of the Assistant Commissioner are upheld accordingly.""*

7. Learned counsel for the Petitioners contended that the learned Single Judge of the Lahore High Court erred in law by setting aside the order dated 16.02.2022 passed by the learned Member (Judicial-VIII), Board of Revenue, Punjab. He submitted that when fraud on a mutation is alleged, the matter falls within the exclusive domain of the Civil Court, as revenue authorities have no power or jurisdiction to decide questions of law and fact in summary proceedings.

In support of his contentions, learned counsel relied upon *Sardar Muhammad and others v. Imam Bakhsh (DECEASED) through LRs and other* (2021 SCMR 391)[1], specifically referencing paragraph 6 thereof, reproduced below:

> *"6. ...The primary question which requires our attention is as to whether the DDO (R) had the power to strike off a sale mutation carried out in a jalsa-e-aam in the presence of witnesses on the ground that such sale was procured through misrepresentation and fraud and if the answer is in the negative, whether the subsequent sale deed in the peculiar circumstances of this case would fall to the ground. It has been repeatedly held, and the law itself provides that the proceedings before the Revenue Officer or before the Revenue Courts are summary in nature and, therefore, complicated questions of law and disputed question of fact are not to be adjudicated in the hierarchy. The determination of complicated questions of law and disputed questions of fact fall within the sole domain of the civil Court. The plea of the respondents that the mutation entry No. 4855 was procured through fraud, in our opinion, could not have been decided in proceedings which are summary in nature as such controversy requires adjudication by allowing the parties to adduce evidence in support of their respective claims. There is no doubt in our minds that the DDO (R) transgressed his limits by declaring mutation No. 4855 as having been obtained through fraud and misrepresentation."*

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[1] *Sardar Muhammad and others v. Imam Bakhsh (DECEASED) through LRs and other*, 2021 SCMR 391, *para 6.*

Learned counsel further placed reliance upon *Rasta Mal Khan and others vs Nabi Sarwar Khan and others* (1996 SCMR 78)[2], referring to paragraph 10 thereof, reproduced below:

> *"10. Regarding bar of jurisdiction of the Civil Court under section 172, subsection (2), clause VI of the West Pakistan Land Revenue Act, 1967 it may be pointed out that exclusion of jurisdiction of Civil Court relates to the correction of the entries made by the Revenue Officer in performance of his duty without touching the right of the persons in the land, but whenever such entries interferes with the rights of a person in the land record in the Record of Rights, and such person feels aggrieved, for correction of such entries he has to approach Civil Court for declaration under section 53 of the Act or in other words under section 42 of the Specific Relief Act both the relief available being of the same nature and identical. The dispute herein pertained to the nature of the transactions in the suits for pre-emption based on the impugned mutation. The suits were therefore rightly held triable by the Civil Court."*

8. He further argued that under section 53 of the West Pakistan Land Revenue Act, 1967 **("the Act of 1967")** read with section 42 of the Specific Relief Act, 1877 **("the Act of 1877")**, any person aggrieved by an entry in the record-of-rights must institute a suit for declaration in the Civil Court, as the jurisdiction of Civil Courts is not ousted to determine title. As to procedure, learned counsel submitted that the Assistant Commissioner/Collector, Gojra lacked statutory authority under the Act of 1967 to review his initial decision dated 30.01.2018 upon a miscellaneous application after a delay of nearly five years. He further contended that the statement of Naib Tehsildar Rashid Mehmood Arshad disowning his signatures was accepted without subjecting him to cross-examination or affording the Petitioners an opportunity to defend the mutation. Reliance was placed on, *Muhammad Yousaf and 3 others v. Khan Bahadur through Legal Heirs* (1992 SCMR 2334)[3].

9. We have heard the learned counsel for the Petitioners at some length and have also gone through the material available on the record, particularly the impugned judgment.

10. There can hardly be any cavil with the legal principles enunciated in Sardar *Muhammad (supra), Rasta Mal (supra), and Muhammad Yousaf*

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[2] *Rasta Mal Khan and others vs Nabi Sarwar Khan,* 1996 SCMR 78, *para 10*
[3] *Muhammad Yousaf and 3 others v. Khan Bahadur through Legal Heirs,* 1992 SCMR 2334.

(supra). However, those precedents apply to cases where a mutation is sanctioned pursuant to a genuine transaction processed through lawful revenue procedures, giving rise to a private title dispute between contesting claimants.

11. The Assistant Commissioner/Collector, Gojra, upon examining the tampering in the official revenue record and recording the statement of the concerned Revenue Officer, passed a comprehensive order on 24.04.2018 recalling his earlier direction and cancelling Mutation No. 1576. The operative part of the said order dated 24.04.2018 passed by the Assistant Commissioner/Collector, Gojra, as reproduced in the impugned judgment, is set out below:

> *راشد محمود نائب تحصیلدار سابقہ حلقہ نواں لاہور حال تعینات تحصیل لالیاں کو طلب کیا گیا انہوں نے بیان لکھ کر دیا۔ کہ انتقال نمبر 1576 مورخہ 28.07.2013 کو پٹواری حلقہ عبدالستار نے درج کیا ہے میں نے کوئی بیان نہ لیے ہیں اور نہ ہی میرے پاس پٹواری حلقہ نے فریقین کو پیش کیا۔ پٹواری حلقہ نے خود بیان لئے اور خود ہی فیصلہ تحریر کیا ہے۔ انتقال مذکورہ پر میرے دستخط جعلی ہیں۔*
> *متذکرہ بالا حالات و واقعات سے واضح ہوتا ہے کہ ام لیلی نے اراضی متدعویہ کو فروخت نہ کیا ہے اور نہ ہی مقبول احمد وغیرہ نے ام لیلی کو رقم اراضی ادا کرنے کی بابت کوئی تحریری یا زبانی ثبوت پیش کیا اور راشد محمود نائب تحصیلدار کے بیان سے واضح ہوتا ہے کہ انتقال زیر اپیل کی بابت فریقین کو ریونیو آفیسر حلقہ کے روبرو پیش نہ کیا گیا ہے۔ عبدالستار پٹواری نے خود ہی فیصلہ تحریر کیا ہے جو کہ فوت ہو چکا ہے۔*
>
> *لہٰذا حکم زیر دستخطی مورخہ 30.01.2018 کو بصیغہ نظر ثانی Recall کیا جاتا ہے۔ درخواست ام لیلی متدائرہ مورخہ 01.03.2018 آمدہ بذریعہ ایڈیشنل ڈپٹی کمشنر (ریونیو) ٹوبہ ٹیک سنگھ کو منظور کیا جاتا ہے۔ انتقال نمبر 1576 مورخہ 28.07.2013 چک نمبر 348 ج ب تحصیل گوجرہ کو منسوخ کیا جاتا ہے۔ ریونیو آفیسر حلقہ ADLR / اراضی ریکارڈ سنٹر گوجرہ کو حکم دیا جاتا ہے کہ وہ سابق صورت بحال کریں۔*

[Emphasis added]

12. The factual findings recorded by the Collector were fully affirmed by the Additional Commissioner (Consolidation), Faisalabad Division vide order dated 12.03.2019, noting that the Petitioners failed to produce any evidence regarding payment of sale price to Respondent No. 1 and that the Revenue Officer had disowned the mutation. Furthermore, during the proceedings before the High Court, the Patwari Halqa submitted an official written report dated 17.10.2024 from the revenue record, which was reproduced in the impugned judgment as under:

> گزارش ہے کہ واقع چک نمبر 348 ج ب تحصیل گوجرہ مطابق ریکارڈ رجسٹر حقداران زمین سال 2007 کھاتہ نمبر 14 کھتونی نمبر 87 تا 92 برقبہ تعدادی 144K-13M مشترکہ ملکیتی مالکان اراضی ہے جس میں ام لیلی دختر مرید عباس برقبہ 22K-13M کی مالکہ اراضی ہے بحوالہ انتقال نمبر 1576 بیعہ زبانی منجانب ام لیلی دختر مرید عباس برقبہ 17K-16M بحق خادم حسین ولد محمد حسن برقبہ 6K-14M مقصود احمد مقبول احمد پسران معراجدین تیمور الحسن ولد خالد محمود بحصہ برابر 6K-14M انوری بی بی زوجہ باغ علی برقبہ 4K-

8M کل 17K-16M مورخہ 28.7.2013 کو تصدیق ہوا۔انتقال نمبر 1576 مذکور کی کوئی سرکاری فیس داخل خزانہ سرکار نہ ہے اور نہ ہی انتقال مذکور کی رپٹ روزنامچہ واقعاتی میں درج ہے۔ نقولات روزنامچہ واقعاتی انتقال نمبر 1576 جمعبندی کی فوٹو کاپی لف ھذا ہے لہذا ایمر ادو مناسب احکام رپورٹ پیش خدمت ہے۔

[Emphasis added]

13. The official record thus establishes three facts: first, that no sale consideration amount was paid by the Petitioners to Respondent No. 1, rendering the alleged oral sale contract void for want of consideration under section 25 of the Contract Act, 1872 **("the Act of 1872")**; second, that the parties never appeared before the Naib Tehsildar, and the Naib Tehsildar's signatures on Mutation No. 1576 were forged by the Patwari Halqa; and third, that Mutation No. 1576 was never entered in the Rapat Roznamcha Waqi'ati as required by mandatory provision of section 42(1) of the Act of 1967, nor was any fee deposited.

14. It is a settled principle of law that a mutation in itself confers no title, being merely evidence of an underlying transaction. The burden of proof squarely rests upon the beneficiary to establish the affirmative existence of the transaction and the payment of consideration; the non-proof whereof is fatal to the claim. Same was held in *Muhammad Akram and another v. Altaf Ahmad, (PLD 2003 SC 688).*[4]

15. A perusal of the record available shows that the present case does not involve a bona fide private dispute over title requiring complex judicial inquiry, but rather a transparent case of unmitigated administrative forgery and complete absence of sale consideration. Sale is an act whereby ownership is transferred in exchange for a price paid or promised. Under section 54 of the Transfer of Property Act, 1882 **("the Act of 1882")**; read with section 2(d) and section 25 of the **("the Act of 1872")**, payment of sale consideration is an essential, indispensable ingredient of a valid transaction of sale. Where an oral sale mutation is asserted, the propounder of the mutation bears the legal burden to establish the actual passing of sale consideration money.

16. In the instant case, the available record reveals that the Petitioners who were mere tenants over the subject land belonging to the

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[4] *Muhammad Akram and another v. Altaf Ahmad, PLD 2003 SC 688,* para, 8.

deceased father of Respondent No. 1 failed to produce a single written receipt, banking instrument, or documentary proof establishing that any sale consideration amount was ever paid by the Petitioners to Respondent No. 1. The Respondent No. 1 categorically denied having sold her inherited land or receiving any sale consideration whatsoever.

17. Furthermore, the Petitioners being tenant over the subject property, are barred under the rule of estoppel from repudiating the title of Respondent No. 1. It is an admitted fact on record that the Petitioners were inducted as tenants over the subject property by the deceased father of Respondent No. 1. Under Article 115 of the Qanun-e-Shahadat Order, 1984 **("QSO"),** a tenant who has been let into possession by a landlord is estopped from denying the landlord's title during the subsistence of the tenancy, unless he first surrenders possession to the landlord. This principle precludes a sitting tenant from covertly manufacturing a fraudulent mutation in his own favour to usurp the property of his landlord while remaining in permissive possession, *Amin and others v. Hafiz Ghulam Muhammad and others (PLD 2006 SC 549)*[5].

18. The judgments relied upon by the learned counsel for the Petitioners have no application to a case where an entry in the revenue record is the product of raw departmental forgery, made without an entry in the Rapat Roznamcha Waqi'ati, without payment of consideration, and without attestation by a competent officer. Fraud vitiates the most solemn proceedings (*fraus et jus nunquam cohabitant*). Relegating an innocent female landowner to the civil court would have meant allowing her inherited property to be stolen by the Petitioners through administrative forgery.

19. Hence, leaving a forged mutation intact would amount to placing a premium on fraud. The learned Member (Judicial-VIII), Board of Revenue, passed a patently perverse order by ignoring the Naib Tehsildar's admission and the Patwari's report, which have never been denied by the Petitioners as per the available record. The learned Single Judge of the Lahore High Court, therefore, rightly exercised the constitutional jurisdiction under

[5] Amin and others v. Hafiz Ghulam Muhammad and others, PLD 2006 SC 549, para 11.

Article 199 of the Constitution to set aside the order of the Board of Revenue and restore the cancellation of Mutation No. 1576. The impugned judgment dated 17.10.2024 is, accordingly, upheld.

20. Above are the reasons of our short order dated 17.11.2026, which is as follows:

> *"Heard the learned counsel for the Petitioner and perused the material available on record with his able assistance.*
> *For the reasons to be recorded separately, the instant petition is dismissed and leave is refused."*

Judge

Judge

Islamabad
17.11.2026
APPROVED FOR REPORTING
Urooj Lashari, Judicial Law Clerk/*