

HIGH COURT OF AZAD JAMMU AND KASHMIR

Writ Petition No. 3531/2021,
Date of Inst. 22.10.2021,
Date of Decision 13.11.2025

1. Muhammad Maqbool;
2. Muhammad Sabir Sons of Muhammad Yaseen Caste Awan R/o Kot Sariyan Tehsil and District Muzaffarabad, AJK.

....Petitioners

VERSUS

1. Muhammad Shapaal;
2. Saleema Bibi D/o Muhammad Maskeen Caste Awan R/o Kot Sariyan Tehsil and District Muzaffarabad, AJK;
3. Full Board of Revenue Muzaffarabad, AJK;
4. Member Monitoring & Co-ordination Board of Revenue;
5. Commissioner Muzaffarabad, AJK;
6. Collector Muzaffarabad, AJK;
7. Extra Assistant Commissioner (Revenue) Muzaffarabad, AJK;
8. Tehsildar Muzaffarabad, AJK;
9. Patwari Halqa Kot Sariyan Tehsil and District Muzaffarabad, AJK.

.....Respondents

WRIT PETITION

Before; Justice Syed Shahid Bahar, J,

PRESENT:

Syed Muhammad Tabish Imam Kazmi, Advocate for the petitioner.

ORDER:

Facts in brevity:-

The titled writ petition has been filed under Article 44 of the Azad Jammu and Kashmir Interim Constitution 1974 whereby following relief is solicited by the petitioners.

“It is therefore, most humbly prayed that by accepting the instant writ petition order passed by the Member Board of Revenue may declared illegal and un constitutional. It is further prayed that impugned judgment dated 21.05.2021 may very graciously be set aside and remarks highlighted in the impugned judgment may very graciously be expunched. It is further prayed that Extra Assistant Commissioner may very kindly be directed to do the needful regarding partition of position land as earlier as possible. Any other relief which this Hon’ble Court deems admissible under law, may please be granted. “

I have heard the learned counsel for the petitioners and gone through the record of the case.

Finding:

Through the titled writ petition the impugned order passed by Full Board of Revenue dated 16.07.2021 on the face of it faulty on the ground that one of the Member of the Board Ch. Mukhtar as being member of Full Board of Revenue has given the previous decision against which the appeal was filed before the Full Board of Revenue and also against the Section 6 of Azad Jammu and Kashmir Board of Revenue (Conduct of Appeals and Revisions) Rules, 1993. According to section 6(2) the Full Board shall consist of Members other than the Member who made the order or passed the decree sought to be revised. For proper appreciation Section 6 of Azad Jammu and Kashmir Board of Revenue (Conduct of Appeals and Revisions) Rules, 1993 is reproduced as under:

6. Revision of orders or decrees of Full Board.
 - (1) An application for revision under sub section (2) of Section 7 of the Azad Jammu and Kashmir Board of Revenue Act, 1993 shall lie to the Full Board only in cases where the order made or decree passed by the Court, subordinate to the Board is reversed or modified by a Member of the Board on appeal.
 - (2) The Full Board shall consist of Members other than the Member who made the order or passed the decree sought to be revised.

It transpires from the perusal of judgment dated 16.07.2021 passed by Full Board of Revenue Azad Jammu and Kashmir and juxtaposition decision impugned passed by the single Member (Monitoring and Coordination) Board of Revenue Muzaffarabad dated 21.05.2021 authored by one of the member i.e. Ch. Mukhtar Hussain (Member in both the judgments). At the first instance set aside the matter by himself and remanded it and subsequently also sit in Full Board of Revenue upon the same decision already given by him which is against the set norms reported in majority of judgments of Apex Courts of Pakistan and Azad Jammu and Kashmir in which it was envisage that “No one can be judge of his own cause” i.e. Nemo index in sva causa.

Without entering into the merits of the case, findings given by board of revenue authorities, the decision on this faulty ground is not sustainable and is not coming upon up to the campus of law to bring the decision as a

decision in the eye of law. The order passed by Full Board of Revenue on this account is not sustainable, therefore, the order dated 21.07.2021 is set-aside and the matter is remanded to the Full Board of Revenue to decide the matter afresh strictly in accordance with law specially adhering to Section 6 of Azad Jammu and Kashmir Board of Revenue (Conduct of Appeals and Revisions) Rules, 1993. The writ petition stands decided in the above stated manner.

Decision impugned mocks the concept of fairness and militates against the fundamental right No. 19 Qua fair trial. Hierarchy of the court & tribunal and quasi judicial tribunals is meant for efficacious remedial purpose to provide stepwise more forum of hearing in order to rectify the errors and to meet the ends of justice.

(Underlining is mine)

The record was summoned from Board of Revenue, although it is oozing from the titled of both the orders reflects that member Board of Revenue Ch. Mukhtar Hussain sit as Presiding Officer in both the proceedings. Record of the case be sent back to the relevant office after its necessary completion.

Announced.

Muzaffarabad
13.11.2025(A)

Judge