

HIGH COURT OF AZAD JAMMU & KASHMIR

*Civil Revision No.09/2025;*  
*Date of Institution 25.09.2025;*  
*Date of Decision 09.12.2025.*

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Muhammad Azeem *vs.* Muhammad Hanif etc.

*Petitioner*

*Respondents*

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(2) *Civil Revision No.11/2025;*  
*Date of Institution 25.09.2025;*

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Muhammad Hanif *vs.* Muhammad Akram etc.

*Petitioner*

*Respondents*

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(3) *Civil Revision No.22/2025;*  
*Date of Institution 25.09.2025;*

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Muhammad Rafique *vs.* Muhammad Hanif etc.

*Petitioner*

*Respondents*

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(4) *Civil Revision No.32/2025;*  
*Date of Institution 25.09.2025;*

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Abdul Razzaq *vs.* Zulfiqar Ali

*Petitioner*

*Respondent*

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(5) *Civil Revision No.35/2025;*  
*Date of Institution 25.09.2025;*

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Ahmed Khan vs. Rabnawaz Khan

*Petitioner*

*Respondent*

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(6) *Civil Revision No.38/2025;*  
*Date of Institution 25.09.2025;*

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Muhammad Jamil etc. vs. Kaleem Akhtar

*Petitioners*

*Respondent*

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(7) *Civil Revision No.07/2025;*  
*Date of Institution 25.09.2025;*

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Rose Valley Pvt. Ltd. vs. Amir Rasool Butt etc.

*Petitioners*

*Respondents*

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(8) *Civil Revision No.43/2025;*  
*Date of Institution 25.09.2025;*

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Ehsan Manzoor vs. Khadim Hussian

*Petitioner*

*Respondent*

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(9) *Civil Revision No.47/2025;*  
*Date of Institution 25.09.2025;*

Zaffar Iqbal vs. Khalid Mehmood etc.

*Petitioner*

*Respondents*

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(10) *Civil Revision No.34/2025;*  
*Date of Institution 25.09.2025;*

Muhammad Tariq *vs.* Ghulam Rasool  
*Petitioner Respondent*

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(11) *Civil Revision No.15/2025;*  
*Date of Institution 25.09.2025;*

Muhammad Hanif *vs.* Mangu Khan & others  
*Petitioner Respondents*

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(12) *Civil Revision No.26/2025;*  
*Date of Institution 25.09.2025;*

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Muhammad Hanif *vs.* Muhammad Afzal  
*Petitioner Respondent*

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(13) *Civil Revision No.36/2025;*  
*Date of Institution 25.09.2025;*

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Muhammad Iqbal etc. *vs.* Tariq Mehmood etc.  
*Petitioner Respondents*

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(14) *Civil Revision No.13/2025;*  
*Date of Institution 25.09.2025;*

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Khalid Mehmood *vs.* Allah Rakha  
*Petitioner Respondent*

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(15) *Civil Revision No.52/2025;*  
*Date of Institution 25.09.2025;*

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Muhammad Saleem etc. *vs.* Col. Muhammad Afzal Khan etc.

*Petitioner*

*Respondents*

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(16) *Civil Revision No.06/2025;*  
*Date of Institution 25.09.2025;*

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Abdul Ghani *vs.* Abdul Majeed

*Petitioner*

*Respondents*

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(17) *Civil Revision No.50/2025;*  
*Date of Institution 25.09.2025;*

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Muhammad Rafique *vs.* Ilam Din

*Petitioner*

*Respondent*

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(18) *Civil Revision No.46/2025;*  
*Date of Institution 25.09.2025;*

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Ch. Amanat Ali *vs.* Muhammad Afzal Khan etc.

*Petitioner*

*Respondents*

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(19) *Civil Revision No.45/2025;*  
*Date of Institution 25.09.2025;*

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Azhar Hussain *vs.* Amanat Ali etc.

*Petitioner*

*Respondents*

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(20) *Civil Revision No.44/2025;*  
*Date of Institution 25.09.2025;*



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Ch. Nasar Iqbal *vs.* Liaqat Ali etc.

*Petitioner*

*Respondents*

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(26) *Civil Revision No.49/2025;*  
*Date of Institution 25.09.2025;*

Sajid Hussain *vs.* Amir Shahzad

*Petitioner*

*Respondent*

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(27) *Civil Revision No.08/2025;*  
*Date of Institution 25.09.2025;*

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Ch. Zaffar Iqbal *vs.* Muhammad Iqbal

*Petitioner*

*Respondent*

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(28) *Civil Revision No.12/2025;*  
*Date of Institution 25.09.2025;*

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Muhammad Aslam etc. *vs.* Wallayat

*Petitioner*

*Respondent*

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(29) *Civil Revision No.31/2025;*  
*Date of Institution 25.09.2025;*

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Muhammad Naeem *vs.* Ghanzanfar Ali etc.

*Petitioner*

*Respondents*

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(30) *Civil Revision No.04/2025;*  
*Date of Institution 25.09.2025;*

\*\*\*\*\*

Muhammad Tariq *vs.* Amanat Ali

*Petitioner*

*Respondent*

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(31) *Civil Revision No.03/2025;*  
*Date of Institution 25.09.2025;*

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Muhammad Afzal etc. *vs.* Muhammad Hanif

*Petitioner*

*Respondent*

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(32) *Civil Revision No.30/2025;*  
*Date of Institution 25.09.2025;*

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Zaffar Iqbal *vs.* Muhammad Siddique etc.

*Petitioner*

*Respondents*

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(33) *Civil Revision No.29/2025;*  
*Date of Institution 25.09.2025;*

\*\*\*\*\*

Muhammad Sadiq *vs.* Hakim Ali

*Petitioner*

*Respondent*

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(34) *Civil Revision No.21/2025;*  
*Date of Institution 25.09.2025;*

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Muhammad Azam *vs.* Muhammad Asghar Ali etc.

*Petitioner*

*Respondents*

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(35) *Civil Revision No.24/2025;*  
*Date of Institution 25.09.2025;*

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Muhammad Islam *vs.* Raja Shamim Akhtar Khan

*Petitioner*

*Respondent*

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(36) *Civil Revision No.25/2025;*  
*Date of Institution 25.09.2025;*

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Tariq Mehmood Butt etc. *vs.* M/s Shahab Appellants Ind. Ltd.

*Petitioner*

*Respondent*

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(37) *Civil Revision No.10/2025;*  
*Date of Institution 25.09.2025;*

\*\*\*\*\*

Muhammad Hanif *vs.* Muhammad Azeem etc.

*Petitioner*

*Respondents*

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(38) *Civil Revision No.02/2025;*  
*Date of Institution 25.09.2025;*

Muhammad Nawaz *vs.* Akbar Ali

*Petitioner*

*Respondent*

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(39) *Civil Revision No.42/2025;*  
*Date of Institution 25.09.2025;*

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Muhammad Amin *vs.* Abdul Rehman

*Petitioner*

*Respondent*

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(40) *Civil Revision No.19/2025;*  
*Date of Institution 25.09.2025;*

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Muhammad Akram vs. Muhammad Boota

*Petitioner*

*Respondent*

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(41) *Civil Revision No.18/2025;*  
*Date of Institution 25.09.2025;*

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Ibrar Hussain vs. Mst. Rasheed Begum etc.

*Petitioner*

*Respondent*

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(42) *Civil Revision No.17/2025;*  
*Date of Institution 25.09.2025;*

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Rukhsana Ayub vs. Arshad Ali etc.

*Petitioner*

*Respondents*

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(43) *Civil Revision No.01/2025;*  
*Date of Institution 25.09.2025;*

\*\*\*\*\*

Muhammad Akram vs. Zahid Mehmood etc.

*Petitioner*

*Respondents*

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(44) *Civil Revision No.51/2025;*  
*Date of Institution 25.09.2025;*

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Muhammad Hafeez vs. Muhammad Mushtaq

*Petitioner*

*Respondent*

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(45) *Civil Revision No.16/2025;*  
*Date of Institution 25.09.2025;*

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Muhammad Ashgar *vs.* Muhammad Zaman

*Petitioner*

*Respondent*

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(46) *Civil Revision No.05/2025;*  
*Date of Institution 25.09.2025;*

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Muhammad Ashgar *vs.* Muhammad Zaman

*Petitioner*

*Respondent*

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(47) *Civil Revision No.39/2025;*  
*Date of Institution 25.09.2025;*

Arshad Mehmood *vs.* Fatima Bibi widow etc.

*Petitioner*

*Respondents*

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(48) *Civil Revision No.28/2025;*  
*Date of Institution 25.09.2025;*

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Mst. Robina Kousar etc. *vs.* Zareeda Begum  
(Legal heirs of M. Arshad)

*Petitioners*

*Respondent*

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(49) *Civil Revision No.41/2025;*  
*Date of Institution 25.09.2025;*

\*\*\*\*\*

Azhar Mehmood *vs.* Mst. Anwar Begum widow etc.

*Petitioner*

*Respondents*

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(50) *Civil Revision No.37/2025;*  
*Date of Institution 25.09.2025;*

\*\*\*\*\*

Muhammad Shabir Ahmed *vs.* Muhammad Ajmi etc.

*Petitioner*

*Respondent*

(51) *Civil Revision No.33/2025;*  
*Date of Institution 25.09.2025;*

\*\*\*\*\*

Muhammad Rafique Qammar *vs.* Muzaffar Khan etc.

*Petitioner*

*Respondents*

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(52) *Civil Revision No.27/2025;*  
*Date of Institution 25.09.2025;*

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Fazal Kareem *vs.* Umar Farooq

*Petitioner*

*Respondent*

### REVISION PETITIONS

**Before:- Justice Sardar Muhammad Ejaz Khan, J.**

**PRESENT:**

Nemo for the petitioner in petition No.09/25;  
Raja Zaffar Hussain Khan, Advocate for  
respondents No.1 & 2.

Raja Zaffar Hussain Khan, Advocate for the  
petitioner in petition No.11/25.

Sardar Maqsood Mughal, Advocate for  
respondents No.1 to 4 in petition No.11/25.

Sardar Maqsood Mughal, Advocate for  
petitioner in petition No.22/25.

Raja Zaffar Hussain Khan, Advocate for  
respondents in petition No.22/25.

Ch. Rashid Rasheed, Advocate for the  
petitioner in petition 32/25.

Ch. Ishtiaq Azam, Advocate for respondent in petition No.32/25.

Ch. Shoukat Ali Ishaq, Advocate for the petitioner in petition No.35/25.

Ch. Rashid Rasheed, Advocate for petitioners in petition No.38/25.

Mr. Mehmood Hussain Chaudhary, Advocate for the petitioner in petition No.07/25.

Mr. Amir Rasool Butt, Advocate for respondents in petition No.07/25.

Ch. Rashid Rasheed, Advocate for the petitioners in petitions No.43/25, 47/25, 36/25, 52/25, 46/25, 45/25, 40/25 & 24/25.

Kh. Ghulam Rasool, Advocate for the respondent in petition No.34/25.

Mr. Abdul Razzaq Chaudhary, Advocate for the petitioner in petition No.15/25.

Mr. Fraz Qadeer Qureshi, Advocate for respondent in petition No.15/25.

Nemo for petitioner in petition 26/25.

Mr. Asad Nawaz Jarral, Advocate for the petitioner in petition No.13/25.

Sheikh Arif Naseem, Advocate for the respondent in petition No.06/2025.

Nemo for the petitioner in petition No.50/25.

Kh. Ghulam Rastum, Advocate for the respondents in petition No.45/25.

Mr. Zulfiqar Ahmed Raja, Advocate for respondent in petition No.44/25.

Sardar Maqsood Mughal, Advocate for the respondent in petitions No.14/25 & No.48/25.

Raja Zaffar, Advocate for the respondents in petitions No.14/25 & No.48/25 and petitioner in petition No.23/25.

Nemo for petitioners in petition No.20/25.

Ch. Ishtiaq Azam, Advocate for the respondents in petition No.40/25.

Nemo for the petitioner in petition No.49/25.

Nemo for petitioner in petition No.08/25.

Muhammad Ibrar Pervaiz Jarral, Advocate for the respondent in petition No.08/25.

Mr. Afraz Ali, Advocate for the petitioner in petition No.31/25.

Nemo for the petitioner in petition No.04/25.

Kh. Amir Rasool Butt, Advocate for the respondent in petition No.04/25.

Nemo for the petitioner in petition No.03/25.

Raja Zaffar Hussain Advocate for the respondent in petition 03/25.

Nemo for the parties in petitions No.30/25 & 29/25.

Mr. Abu Hannat, Advocate for the petitioner in petition No.21/25.

Nemo for the parties in petition No.25/25.

Raja Zaffar Hussain Khan, Advocate for petitioner in petition No.10/25.

Nemo for the parties in petitions No.02/25, 19/25, 18/25, 17/25 & 01/25.

Hafiz Fazal-ur-Rehman, Advocate for the petitioner in petition 42/25.

Mr. Asif Hussain Chaudhay, Advocate for respondent in petition No.42/25.

Raja Qammar Yaseen, Advocate for the petitioner in petition No.51/25.

Mr. Kabeer Hasham, Advocate for respondent in petition 16/25.

Mr. Kabeer Qasim, Advocate for respondent in petition No.05/25.

Ch. Rashid Rasheed, Advocate for petitioner in petition No.39/25.

Mr. Afraz Ali, Advocate for the petitioners (legal heirs of Muhammad Arshad) in petition No.28/25.

Nemo for the parties in petition No.41/25.

Mr. Abdul Hameed, Advocate for the petitioner in petition No.37/25.

Ch. Khurram Manzoor, Advocate for the respondents in petition 37/25.

Nemo for the petitioner in petition No.33/25.

Hafiz Fazal-ur-Rehman Dar, Advocate for the respondents No.33/25 & 12/25.

Mr. Jahanzeb Khan, Advocate for the petitioner in petition No.27/25.

JUDGMENT:

The captioned petitions have been ordered to be referred by the Hon'ble Supreme Court to this Court to pass any appropriate order in exercise of powers conferred under Section 115(d) of Civil Procedure Code, 1908 through which the impugned compromise judgments and decrees, under revisions, have been passed by the learned trial Court on

23.10.2007,	17.10.2007,	30.11.2007,
12.10.2007,	01.06.2007,	22.02.2007,
29.12.2007,	14.02.2008,	10.02.2008,
15.05.2007,	16.05.2007,	30.11.2007,
21.02.2008,	14.05.2007,	22.02.2007,
26.12.2007,	19.02.2008,	26.12.2007,
29.12.2007,	17.01.2008,	31.12.2007,
30.11.2007,	01.02.2008,	13.11.2007,
03.04.2007,	11.01.2007,	24.01.2008,
21.05.2007,	27.01.2007,	30.11.2007,

12.02.2007, 31.05.2007, 16.03.2007,  
13.11.2007, 14.03.2007, 09.04.2007,  
15.01.2007, 10.03.2008, 10.03.2007,  
10.05.2007, 08.05.2007, 28.12.2007,  
16.04.2007, 09.04.2007, 03.04.2007,  
09.05.2007, 15.03.2007, 14.03.2007,  
14.01.2008 & 22.11.2007 while deciding  
*Robkar-e-Adalat vs. Raja Imtiaz Ahmed.*

2. As common questions of facts and law are involved in the cases in hand, hence, the same were consolidated and are being decided through this single judgment.

3. Heard. Written arguments filed on behalf of the parties were perused.

4. At the very outset, it appears from the record that the plaintiffs-petitioners filed suits for declaration of ownership on the basis of agreement-to-sell/oral-sale/gift against defendants-respondents before the trial Court and after proceedings, the aforesaid suits were

decreed on the basis compromise vide impugned aforesaid judgments & decrees. It depicts from record that it was found during the contempt proceedings before the Hon'ble Supreme Court against the then presiding officer Raja Imtiaz Ahmed who passed the compromise decrees in hand without lawful authority, in violation of the Registration Act, the matter was referred to this Court for appropriate scrutiny and exercise its powers under Section 115(d) Civil Procedure Code vide judgment dated 03.07.2025.

5. On revisions, the parties were summoned. Although in the instant cases some of the parties have died and some are in abroad and some have transferred the land to other persons. To meet this situation, this Court vide order dated 04.11.2025 deemed it proper to summon the parties through substituted service while the parties in the captioned cases



were summoned through proclamation, which was published in local and national newspapers.

6. As stated earlier, the aforesaid cases were referred to this Court by the Hon'ble Supreme Court vide judgment dated 03.07.2025, which have been taken up for proper adjudication of the matter, hence, before attending the controversy involved in the titled cases, I would like to reproduce the relevant portion of the judgment of the Hon'ble Supreme Court dated 03.07.2025 in the following manner:-

*“Before parting with, it is evident from the report filed by the Registrar, High court that the Contemnor-respondent during his posting as Senior Civil Judge, Bhimber passed 52 compromise decrees without legal authority and in violation of the Registration Act. Since the High Court is vested with revisionsal jurisdiction under section 115(d) of the Code of Civil Procedure, 1908, the matter is accordingly referred to the High Court for appropriate*

*scrutiny. The High Court is expected to examine the legality and propriety of the aforesaid compromise decrees, after issuing notice to the concerned decree-holders. The High Court shall exercise its powers under the aforementioned provision and pass an appropriate order in the matter within a period of six months from the date of receipt of this order.*

*Let a copy of this judgment be sent to the Registrar High Court for placing the same before the authority.”*

7. In all these cases, a similar proposition is involved. As the plaintiffs-petitioners filed aforesaid suits for declaration of ownership on the basis of agreement-to-sell in respect of undivided *Shamilat-deh* land except suits No.91/07, 63/07, 55/08, 57/08, 264/07 & 312/07 whereupon the defendants-respondents were summoned who appeared before the Court and filed cognovits. In all above-mentioned cases, the learned trial Court on the basis of cognovits/compromise issued the impugned declaratory decrees in favour of

the plaintiffs-petitioners. However, in suit No.291/07 titled *Fazal Kareem vs. Umar Farooq* after passing a decree, an application has been filed under Section 12(2) of Civil Procedure Code before the learned trial Court, which was allowed and the said order was upheld by the Apex Court vide its judgment dated 23.11.2024. So, the compromise decree has already been recalled and to that extent the matter has attained finality whereas in suits No.47/07, 81/07 & 04/07 applications for impleading legal heirs of the parties, impleading vendees/purchasers and in suit No.92/07 no one appeared before the Court, however, Zarar Ali, Advocate, appeared before the Court and filed power of attorney on behalf of Khizar Ali but no application has been brought for arraying Khazir Ali as party on record.

8. To attend this controversy, matter pertaining to *Shamilat-deh* land, it would be advantageous to reproduce Section 5 of AJ&K Grant of Khalsa Waste Land as *Shamilat-Deh* Act, 1966 as under:-

**“5. Grant of Shamilat-deh rights:-**

*(1) Shamilat rights hereby granted out of State-owned lands, other than demarcated forests, shall be recorded up to the extent of 100 per cent of cultivated area in a village in 1982 (bikrami), subject to availability of such land in that village. Only one mutation of Shamilat-deh shall be attested in any one village under this sub-section and such mutation may be sanctioned by the Settlement officer or Assistant Settlement officer. Provided that mutation of an area in excess of 800 Kanals shall be sanctioned by the Settlement Commissioner or an officer specially authorized by him.*

*(2) The areas already used for grazing, burial and drinking water purposes and other existing Shamilat-deh areas shall be deducted from the total entitlement but included in the general mutation of Shamilat-deh referred to in sub-section (1).*

*(3) [Twenty per cent of the total Shamilat areas shall be*

*reserved for common purposes of villagers and five per cent shall be kept destitute or regularize the nautors, if any, made by them. Otherwise, it shall remain under the control and management of Revenue Department, it there is no destitute or till it is properly made over to the destitute. The rest 75 per cent of Shamilat area may be used by the land owners for plantation [cultivation or any other purpose] within the limit of their respective shares to be determined by the Revenue Officer of the rank not below than a Tehsildar];*

- (4) In determining the extent of the right of the land owner to Shamilat land, for the purpose of sub-section (3) the area owned or cultivated by him or his predecessor-in-interest in the year 1982 (Bikarmi) shall be the basis. The area in respect of which occupancy rights are held by any person according to the revenue record in that year should be deducted when working out the entitlement of any individual owner. Benefit of such occupancy areas should go to future land-owners.*
- (5) The share of any individual land owner in Shamilat deh area shall be in proportion to his cultivated owned land in the year 1982 (Bikrami) subject to*

*the condition that the total holding of a land owner in a village including his own land and that given to him under this Act shall not exceed twenty kanlas in the case of a local destitute or four hundred Kanls in the case of others.*

- (6) Share in Shamilat on evacuee land shall go to its allottees, but where evacuee land is in the illegal possession of any person its share in Shamilat may be utilized by the concerned Union Council till the same is properly allotted to any person.*
- (7) All mutations the mutation of which was sanctioned before the year 1982 (Bikarmi) shall be included in the basic area for the purposes of calculating Shamilat rights under sub-section(1).*
- (8) .....*
- (9) .....*
- (10) The provisions of this Act in respect of Shamilat rights shall not apply to estates mutations whereof have already been attested under Ailan No.17 and Ailan No.2.*
- (11) .....*
- (12) .....*
- (13) Any person who contravenes any direction or ejectment order issued in pursuance of sub-section (5) of section 4, or sub-section (9) or (12) of this section shall be liable to fine up*

*[Rs.5000/-] to be imposed by the Collector.*

*(15) The grant of proprietary rights shall be sanctioned by the Collector on a certificate issued by the Divisional Forest Officer of the area that the conditions prescribed in clauses (a), (b) and (c) of sub-section (14) have been satisfied and the land shall be assessed to land revenue if not already assessed. The person thus acquiring proprietary rights shall be recorded as “**Malik Hissadar**” under Shamilat-deh instead of tenant-at-will through mutation attested by any Settlement officer or Revenue officer in accordance with the sanction aforesaid.”*

9. Under the relevant provisions of law, as the *Shamilat-deh* rights granted out of State-owned lands, other than demarcated forests, shall be recorded up to the extent of 100 per cent of cultivated area in a village in 1982 (*Bikrami*), subject to availability of such land in that village. Only one mutation of *Shamilat-deh* shall be attested in any one village under this sub-section and such mutation may be

sanctioned by the Settlement officer or assistant Settlement officer while mutation of an area in excess of 800 Kanals shall be sanctioned by the Settlement Commissioner or an officer specially authorized by him. The area already used for grazing, burial and drinking water purposes and other existing *Shamilat-deh* areas shall be deducted from the total entitlement but included in the general mutation of *Shamilat-deh* referred to in subsection (1) twenty per cent of the total *Shamilat* areas shall be reserved for common purposes of villagers and five per cent shall be kept destitute or regularize the nautors, if any, made by them. Otherwise, it shall remain under the control and management of Revenue Department, if there is no destitute or till it is properly made over to the destitute. The rest 75 per cent of *Shamilat* area may be used by the land owners for plantation [cultivation or any



other purpose] within the limit of their respective shares to be determined by the Revenue Officer of the rank not below than a Tehsildar. It is now settled that regarding the Shamilat Deh land no declaratory decree or a decree for perpetual injunction in favour of the some landowners of the village on the basis cognovits/compromise can be passed by a Civil Court. The decree so passed would be a nullity in the eye of law and all the transactions on the basis of such decrees would fall on grounds because when the foundation is illegal, how the superstructure built over it can be declared as legal. The Superior Courts have time and again held that the decree regarding the *Shamilat Deh* land on the basis of agreement of a private person or on cognovits cannot be granted. Reliance can be placed on a case reported as *Ch. Maqbool Ahmed & 17 others vs. Ch. Muhammad Iqbal* [2017 SCR 1653]. Similar

proposition has been resolved by the apex Court in case reported as *Muhammad Rasheed & 5 others* [2016 SCR 505] in which it has been observed that:-

*“It is well settled principle of law that the declaration cannot be claimed on the basis of possession over the Shamilat Deh land until and unless the same partitioned and specific certificate by the Collector is granted. Moreover, it is also now settled that no decree of ownership regarding the Shamilat Deh land on the basis of any agreement by a private person or cognovits can be granted.”*

It has further been held in para 6 of the aforesaid judgment that:-

*“It may be stated that there is no second opinion in this regard that if the legal heirs of deceased, plaintiff, are not arrayed as party, the suit to his extent will automatically be abated and this fact even has not been denied by the learned counsel for the respondents. However, as we have held that the suits without partition of the Shamilat Deh land, in the present form, were not competent, therefore, any findings regarding the abatement of the suit will be immaterial and mere of academic discussion.”*

10. By taking into consideration the dictum laid down by the Hon'ble Apex Court in the above-referred report, the declaration of ownership cannot be claimed on the basis of possession over the undivided *Shamilat-deh* land. Under Section 9 of the Act, supra, the jurisdiction of the Civil Court has been ousted in respect of all those matters upon which revenue officer/Government had competent to lay their hands. Under law, every inhabitant having his owned land in the village is owner of the '*Shamilat-deh*' according to his proportionate share. An owner in the village cannot claim exclusive ownership of a particular area of *Shamilat-deh* land. The possession of any land owner over the *Shamilat-deh* land is deemed to be possession of whole proprietary body. The jurisdiction of the Civil Court over *Shamilat-deh* land is

limited. Moreover, it is also now settled law that until the revenue authorities partition the *Shamilat-deh* land by metes and bounds, as such, no decree of perpetual injunction can be passed regarding *Shamilat-deh* land. Similar proposition has been resolved in case reported as *Amjid Javed & others vs. Muhammad Arif & others* [2025 SCR 395] wherein it has been held that:-

*“Be that as it may, it is uncontested that the land in issue is a Shamilat deh, and accordingly, no decree of perpetual injunction can be granted with respect to such land in favour of any party. The jurisdiction of the Civil Court over shamilat deh land is circumscribed, and until the Revenue authorities partition the land by metes and bounds, no specific share can be adjudged to be in the possession of any landowner.”*

11. It is not out of place to mention here that admittedly, the suit land is *Shamilat-deh* land in view of revenue record while the

declaratory suits were filed on the basis of agreement-to-sell. The learned trial Court decreed the suits on the basis of compromise/cognovits and after perusal of revenue record, it shows that admittedly, compromise decrees have been issued regarding undivided *Shamlat-deh* land and for determination of such share in view of rights of the Deh, a comprehensive mechanism has been defined in Section 5 of The AJ&K Grant of Khalsa Waste Land as Shamlat-Deh Act, 1966. As stated earlier, the jurisdiction of Civil Court over Shamlat-deh land is circumscribed and until the revenue authority makes partition of the land by metes and bounds, no specific share can be adjudged to be in the possession of any landowner, hence, the learned trial Court had got no jurisdiction to pass the impugned judgments & decrees regarding undivided *Shamlat-deh* land.

12. It was incumbent upon the plaintiffs-petitioners to array Revenue Department as party in the line of defendants-respondents and in its absence, no decree can be granted in the eye of law, therefore, the suits filed by the petitioners were not maintainable from this angle. Similar views have been expressed by the apex Court of Azad Jammu & Kashmir in a case reported as *Muhammad Sadiq and another vs. Muhammad Afsar and 62 others* [PLD 1997 (S.C. AJ&K) 28] wherein following dictum has been laid down:-

*“When the Government was shown as owner-in-possession of the land in question, on the basis of Misle-e-Haqqiat 1959-60 incorporated in the impugned mutation, it was enjoined upon the plaintiffs to implead the Government, the owner-in-possession of the land, to get an entry deleted from its name and inserted in the name of the plaintiffs but no such course was elected by the appellants-plaintiffs. In this view of the matter, a decree obtained in absence of a necessary party which was entered in the*

*Revenue papers as owner-in-possession, was, in our considered view, a nullity which at least cannot bind the Government, the owner of the land in dispute.*

*6. We have also noticed that out of the land in dispute land measuring 601 Kanals was acquired by the WAPDA long before the proceedings and a mutation to this effect was also sanctioned. The Member, Board of Revenue has also observed that out of the land in dispute, a substantial portion of it was acquired by WAPDA who duly paid for the said land but despite that even the WAPDA was not arrayed as one of the defendants in the suit filed by the plaintiffs. Thus, in our view a decree obtained in absence of necessary parties was a nullity in the eye of law in so far as the necessary parties are concerned.”*

Same views have been expressed in a case reported as *Barkat Ali & another vs. Sultan Mehmood & 18 others* [2009 SCR 158] and in addition to that it has been observed that civil Courts have limited jurisdiction and cannot grant a decree of permanent injunction against

the shareholders unless the *Shamilat-deh* land is partitioned by metes and bounds by revenue authorities, hence, no specific share can be declared to be in possession of any landowner. The relevant portion of the above report is usefully reproduced as under:-

*“From the pleadings of the parties as well as the judgments recorded by the lower Courts it appears that the suit land is admittedly Shamilat deh, about which the civil Courts have limited jurisdiction and admittedly cannot grant permanent injunction against all the share-holders who possess the land in the estate as well. Similarly unless the Shamilat deh land is partitioned by metes and bounds by the Revenue authorities no specific share can be declared to be in possession of any land-owner. In this view of the matter, we modify the judgment recorded by the trial Court in favour of the respondents by holding that the judgment recorded by the trial Court shall be inter-party and not enforceable against other share-holders in the Shamilat nor shall the same be binding on the Revenue authorities who have jurisdiction to work out the share in Shamilat according to the holding of land owners in the village or estate.”*



13. Another important aspect involves in the cases in hand that whether any landowner can transfer the *Shamilat-deh* land alone? When a landowner transfers his owned land then he can transfer rights of his *Shamilat-deh* land, which right attached to his own land whereas in the above-mentioned cases, *Shamilat-deh* land has been transferred independently through the impugned decrees. Under law, the landowner can transfer the *Shamilat-deh* land as per his share adjacent to owned land, which cannot be transferred independently, hence, it can safely be concluded that declaratory decrees passed in favour of the plaintiffs-petitioners are nullity in eye of law.

14. Now, coming to identical nature's suits No.91/07, No.63/07, No.57/08, No.264/07 & No.312/07, as declaratory suits

were filed by the plaintiffs-petitioners on the basis of oral-sale/gift and agreement-to-sell, which were decreed. It is relevant to mention here that if any person is agreeing/willing to transfer his owned land to other person, under law he can transfer the same through any recognized mode as provided under law, therefore, method adopted in the above-mentioned cases wherein suits were filed on the basis of oral-sale/gift, agreement-to-sell and after filing of suits, the other side were summoned who appeared before the learned trial Court and filed cognovits while the learned trial Court at the same moment passed the impugned decrees in favour of plaintiffs-petitioners, as such, this practice tantamounts defeat the relevant provisions of law.

15. Another legal aspect of the cases in hand is that whether oral-sale/gift-deed relied

upon by the plaintiffs-respondents can be received in evidence under law? Under Section 17 of The Registration Act, 1908 when value of subject-matter is more than one hundred rupees, which must be registered. On this point, similar proposition has been resolved by the apex Court in a case titled *Manzoor Hussain vs. Muhammad Fazal and 8 others* [2002 SCR 308] wherein it has been held that:-

*“Under section 17 of the Registration Act, the documents mentioned in sub-section (1), clause (b) which support or operate to create, declare, assign, limit or extinguish any right, title or interest of the value of the one hundred rupees or upwards, are compulsorily registerable and if they are not registered, then section 40 of the said Act provides as follows:-*

*“49. Effect of non-registration of documents required to be registered: no document required to be registered under this Act or under any earlier law providing for or relating to*

*registration of the documents shall-*

- (a) operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, to or in immovable property; or*
- (b) confer any power to adopt unless it has been registered.”*

*Even on this score the agreement-to-sell which was of the value of more than one hundred rupees was to be registered compulsorily under section 17 of the Registration Act and if the same was not registered, it does not create or confer any title upon the respondents. Thus, even if the execution of the document, agreement-to-sell, be admitted as correct, it does not confer any title of the suit land upon the respondents.”*

Similar proposition has been resolved by the Hon'ble Supreme Court in a case reported as *Muhammad Yasin (alias Punoo) and 2 others vs. Muhammad Yunus and 2 others* [PLJ 2006 SC

(AJK) 96] in which the following dictum has been laid down:-

*“Under the Corresponding provisions of Act of 1908, non-testamentary documents which purport or create, declare etc. a right in immovable property worth Rs.100 or more, is compulsorily registerable. Distention between the two laws is that, under the former law every non-testamentary document relating to transfer of immovable property was compulsorily registerable, but under the later, only that document relating immovable property is compulsorily registerable which is worth more than Rs.100/-. However, the effect of non-registration of documents required to be registered under Section 17, is same under both the laws i.e. a document which is required to be compulsorily registerable shall not be received in evidence, if it is not registered. This clause has been amended in the rest of the country through an amendment in the registration Act in 1962, but this amendment is neither adopted nor any fresh amendment is made in the Registration Act in Azad Kashmir. Hence un-registered sale-deed relied upon does not confer any right, neither can it be received in evidence at any state of the proceedings.”*

16. Another legal aspect of the cases in hand is that some of the titled cases plaintiffs-petitioners filed suits against the defendants-respondents for declaration of ownership on the basis of agreement-to-sell whereas agreement-to-sell does not create any right, title or interest in the property, hence, suits for declaration on the basis of such document are not maintainable under the relevant provisions of law and the principle laid down by the Hon'ble Supreme Court in cases reported as [2006 SCR 92] & [2024 SCR 563].

17. It is relevant to mention here that Board of Revenue, time and again, issued Standing orders regarding *Shamilat-deh* land and some of the Standing Orders having no conformity with the relevant provisions of *Shamilat-deh* Act, are not enforceable under law while any Standing Order issued by Board of Revenue offends the relevant provisions of

The AJ&K Grant of Khalsa Waste Land as *Shamilat-Deh* Act, 1966, which has got no legal value. So when the revenue authorities pass the entitlement certificates in favour of any individual, the same directly offends Section 5 of the Act, supra, and the rights of the public-at-large, hence, it is incumbent upon the revenue authorities to protect 20% common land (playground, graveyard, and green area) and maintain the revenue record in the light of relevant provisions of law.

18. In the light of above discussion, it is a pure question of law that whether the learned trial Court had got jurisdiction to grant a declaratory decrees in respect of undivided *Shamilat-deh* land and whether the trial Court was competent to pass decrees of ownership on the basis of agreement-to-sell and relief claimed in all suits was allowable under law, the answer wholly given in pre-paras, in view of

relevant law and dictum laid down by the Apex Court, is in negative. All the suits are barred by law, therefore, plaints are liable to be rejected. It is well settled principle of law that an incompetent suit should be laid at rest at earliest moment so that no further time is wasted.

19. As stated earlier that the matter was disclosed in the Hon'ble Supreme Court regarding issuance of the aforesaid 52 decrees in case titled *Robkar-e-Adalat vs. Raja Imtiaz Ahmed*, hence, keeping in view the public interest that sanctity and legality of all the decrees passed by the learned trial Court as well as 1<sup>st</sup> appellate Court regarding *Shamilat-deh* land in Mirpur Division Mirpur are required to be examined in exercise of powers conferred by this Court under Section 115(d), C.P.C., hence, Deputy Registrar Circuit Mirpur is directed to send a copy of this judgment to



the learned District Judges, Mirpur, Kotli and Bhimber to submit record pertaining to issuance of the aforesaid decrees within a period of two months. The same after receiving shall be placed before the Court for proper order.

20. The nutshell of the foregoing reasons is that the captioned revision petitions are accepted and the impugned compromise judgments & decrees passed by the learned trial Court are hereby *set-aside* and further transactions and entries in revenue record made on the basis of the aforesaid decrees would be deemed to have been cancelled. Consequently, the complaints are hereby rejected. The Revenue Department is hereby directed to implement the judgment in letter & spirit and maintain the revenue record pertaining to *Shamilat-deh* land in accordance with law. The office is directed to transmit an attested copy of

this judgment to concerned quarters for compliance and the same shall be annexed along-with the other relevant files.

Muzaffarabad.  
09.12.2025(J.ZEB)

**JUDGE**

*Approved for reporting*

**JUDGE**