HIGH COURT OF AZAD JAMMU & KASHMIR

Civil Appeal No. 167/2020.
Date of Institution 17.12.2020.
Date of decision 10.12.2025.

Mohammad Ishfaq Ahmed s/o Ch. Rehmat Caste Gujjar r/o Dheri Barwan Chaksawari Tehsil & District Mirpur, Azad Kashmir.

Appellant

VERSUS

1. Mohammad Farooq;
2. Dawood Sadiq sons of Mohammad Sadiq;
3. Sakeena Bibi d/o Abdul Kareem;
4. Khanma Bi widow;
5. Mohammad Zahoor;
6. Mohammad Zaheer sons;
7. Asia Bibi;
8. Tahzeem Akhter daughters of Shan Caste Gujjar r/o Dheri Barwan Chaksawari Tehsil & District Mirpur;

Real Respondents

9. Mohammad Akhlaq Ahmed s/o Ch. Rehmat Caste Gujjar r/o Dheri Barwan Chaksawari Tehsil & District Mirpur.

Proforma Respondent

CIVIL APPEAL

Before:- **Justice Syed Shahid Bahar, J.**

IN THE PRESENCE OF:
Ch. Mohammad Ashraf Ayaz, Advocate for the Appellant.
Ch. Tehseen Ahmed, Advocate for Respondents No.1 & 2.

JUDGMENT:

The captioned appeal has been directed against the order passed by the learned Additional District Judge Mirpur dated 29.10.2020, whereby, while setting aside the order passed by the learned Civil Judge Court No.II Mirpur dated 13.11.2019, application filed by the plaintiffs for seeking amendment was

allowed. Order passed in revisional jurisdiction by the learned Additional District Judge is under challenge before this Court in shape of civil appeal.

2. Today, when the case was taken up for arguments, the learned counsel for the respondents voiced a preliminary objection pertaining to maintainability of the appeal. He vehemently contended that appeal is not competent against the order and it could have been assailed by filing a constitutional petition only.

3. Be that as it may, an order passed by the District Judge in revision is not appealable and under CPC, the only remedy available to the appellant is a constitutional petition field under Article 44 of the Azad Jammu & Kashmir Interim Constitution. Section 104 CPC and order 43 Rule 1 clearly listed orders against which appeals are permissible, thus, an order passed in revision is not mentioned anywhere. **Clear enough that order impugned passed in revisional jurisdiction is neither an order appealable under Order 43 Rule 1 CPC nor a decree or an order appealable under Section 104 CPC. Appeal only lies when it is expressly provided in the law. Law recognize only such lis which is provided in the codal scheme and specifically listed the relevant law.**

(emphasis supplied)

Leaving aside the factual matrix of the lis, no appeal lies against an order passed by the learned District Judge in revision, remedy provided in the law is only the writ [1].

Aftermath of the above is that the appeal is not competent, fails, therefore, dismissed. File shall be kept in archive.

Circuit Mirpur.
10.12.2025 (Saleem) JUDGE

(Approved for Reporting)

JUDGE

[1]. M.Aslam Vs. District Judge PLD 2003 SC 344, 2004 SCMR 1110+2019 YLR 1559 (L)+PLD 2001 SC 49.