

SUPREME COURT OF AZAD JAMMU AND KASHMIR

[Appellate Jurisdiction]

PRESENT:

Ch. Muhammad Ibrahim Zia, C.J.
Raja Saeed Akram Khan, J.

Civil Appeal No. 47 of 2019
(PLA Filed on 28.02.2019)

1. Muhammad Yousaf Khan,
 2. Liaqat Ali sons of Fatha Khan caste Mangral r/o
Anti Tehsil Sehnsa, District Kotli, A.K.
-APPELLANTS

VERSUS

1. Additional District Judge Sehnsa.
2. Civil Judge Sehnsa,
3. Ali Dad son of Fazal Din,
4. Muhammad Aslam,
5. Muhammad Ashraf,
6. Muhammad Akram,
7. Muhammad Azal, sons
8. Fazad Begum,
9. Shaheen Begum,
10. Raheem Jan daughters of Muhammad Hussain
11. Wajid,
12. Sajid, sons
13. Robina Bibi daughter,
14. Zahida Begum widow of Karam Dad,
15. Anayat Begum,
16. Ameer Begum,
17. Kalsoom Begum,
18. Fazeelat Begum,
19. Raqeeb Begum daughters of Jamal Din,
20. Mst. Mashwar Jan daughters of Shah,
21. Muhammad Kareem, son
22. Shaheen daughters of Sher Muhammad,
23. Matloob Jan, widow
24. Muhammad Kabir,
25. Muhammad Fareed,
26. Ghulam, sons

27. Shaheen Akhtar,
28. Safeena Bibi daughter of Ameer Dad,
29. Mst. Mango daughter of Aziz,
30. Shafyat Jan,
31. Tazeem Akhtar daughters of Fazal Din castes Malik r/o Village Anti Tehsil Sehnsa District Kotli, Azad Kashmir.

.....RESPONDENTS

32. Mst. Nasreen Begum,
33. Murawat Begum daughters of Fatah Khan,
34. Mst. Zeenat Bibi,
35. Rasheed Begum,
36. Naseem Begum daughters of Pinnu,
37. Mst. Rasheeda Begum widow,
38. Muhammad Khalid,
39. Muhammad Sajid,
40. Muhammad Abid,
41. Muhammad Ejaz, sons
42. Mst. Zahida daughter of Mashardad,
43. Hayatllah sons of Fatah Khan castes Mangral residnets of Village Anti Tehsil Sehnsa District Kotli, Azad Kashmir.
44. Assistant Commissioner Sehnsa
45. Tehsildar Sehnsa.
46. Gardawar Circle Anti Tehsil Sehnsa District Kotli.

..... PROFORMA RESPONDENTS

[On appeal from the judgment of the High Court dated 27.12.2018 in writ petition No. 121 of 2018]

FOR THE APPELLANTS: Mr. Zulfiqar Ahmed Raja, Advocate.

FOR THE RESPONDENTS: Mr. M. Reaz Alam, Advocate.

Date of hearing: 21.05.2019

JUDGMENT:

Ch. Muhammad Ibrahim Zia, C.J.– The captioned appeal by leave of the Court has been filed against the judgment of the High Court dated 27.12.2018, whereby, the writ petition filed by the appellants, herein, has been dismissed.

2. The precise facts of the case are that the declaratory suit filed by respondent No. 3, herein, against the appellants, herein, was pending adjudication in the Court of Civil Judge, Sehnsa. During pendency of the suit, the appellants, herein, filed an application for amendment in the written statement. The learned trial Court rejected the application. The revision petition filed by the appellants, herein, before the Additional District Judge, Sehensa, failed. The appellants filed a writ petition before the High Court. The learned single Judge of the High Court (Mr. Justice Raja Sajjad Ahmed Khan), dismissed the writ petition through the impugned judgment.

3. At the very outset the learned counsel for the respondents very graciously conceded that the

point raised in the appeal, has substance in the light of record because the Author of the impugned judgment happened to be counsel for one of the parties, therefore, he has no objection in acceptance of this appeal and remanding of the case to the High Court.

4. In view of the admitted facts and concession extended by the learned counsel for the respondents, while accepting this appeal and setting aside the impugned judgment the writ petition is remanded to the High Court with the direction that the same shall be placed before the bench comprising of any Judge other than Mr. Justice Raja Sajjad Ahmed Khan, the author of impugned judgment. After due process of law, the case shall be decided on merit according to law.

This appeal is accepted in the above terms with no order as to costs.

CHIEF JUSTICE

JUDGE

Mirpur,
21.05.2019