

SUPREME COURT OF AZAD JAMMU AND KASHMIR
[Appellate Jurisdiction]

PRESENT:

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

Civil Appeal No.147 of 2018
(PLA filed on 03.07.2018)

Haq Nawaz Amin Qadri son of Qazi Muhammad Amin, caste Mughal, resident of Chak No.491, Kashmir Colony, Shor Kot, Jhang (Pakistan) at present r/o Kotli City, Tehsil and District Kotli.

.....APPELLANT

VERSUS

1. Custodian Evacuee Property, Muzaffarabad.
2. Rehabilitation Authorities through Commissioner Rehabilitation, Muzaffarabad.
3. Commissioner Rehabilitation, Mirpur Division, Mirpur.
4. Meharban Hussain son of Said Muhammad,
5. Qurban Hussain son of Jhallah Khan,
6. Muhammad Basharat son of Bahar Ali,
7. Haji Fazal Karim s/o Fateh Muhammad,
8. Fatima Bi, widow, 8-i) Tariq Mahmood, 8-ii) Amjad Mehmood, sons, 8-iii) Zobein Akhtar, 8-iv) Shaheen Akhtar, 8-v), Noreen Akhtar, 8-vi) Shareen Akhtar, 8-vii) Shahreen Akhtar, daughters of Haji Fazal Hussain (deceased).
9. Babar Hussain son of Qaim Din,

10. Ch. Muhammad Siddique, s/o Fateh Alam,
11. Muhammad Ramzan son of Muhammad Alam, caste Jatt, all residents of village Thara, Tehsil Dadyal, District Mirpur.
12. Nazeer Hussain son of Fateh Muhammad r/o village Tahra, Tehsil Dadyal,
13. Board of Revenue, Azad Government of the State of Jammu and Kashmir, Muzaffarabad.

.....RESPONDENTS

14. Muhammad Adil,
15. Muhammad Naeem, sons,
16. Mst. Sherroom, widow of Muhammad Jamil, all residents of Ram Colony, Opposite Railway Station, Mardan, NWFP (Pakistan).

.... PROFORMA RESPONDENTS

[On appeal from the judgment of the of the High
Court dated 09.05.2018 in writ petition
No.777/2008]

FOR THE APPELLANT: Ch. Jahandad Khan,
Advocate.

FOR RESPONDENTS No.5 & 8: Ch. Bilal Ali, Advocate.

Date of hearing: 18.02.2020

JUDGMENT:

Ch. Muhammad Ibrahim Zia, C.J.–

After hearing the learned counsel for the parties at some length, without detailed discussion of facts and merits of the case an important legal proposition of second and successive review petition before the Custodian is involved. This Court in the case reported as *Dr. Munawar Ahmed & others vs. Muhammad Aslam & others* [2016 SCR 1014] has observed that no successive review petition is competent. In this case, the basic judgment called in question is that of the Custodian passed in successive review petition. This proposition goes to the roots of the case, however, the same has not been properly attended and resolved by the learned High Court.

In this state of affairs, we deem it appropriate to first of all have wisdom of the High Court on the aforesaid proposition, hence, while accepting this appeal and recalling the impugned

judgment, the case is remanded to the High Court to hear the parties, among others, on the aforesaid proposition and thereafter pass speaking judgment. As the parties are facing litigation since long, therefore, it is felt advised to direct the High Court for deciding the matter within a period of four months from communication of this judgment.

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

Mirpur,
18.02.2020

CHIEF JUSTICE

JUDGE