

SUPREME COURT OF AZAD JAMMU AND KASHMIR
(Appellate Jurisdiction)

PRESENT:

Raja Saeed Akram Khan, J.
Ghulam Mustafa Mughal, J.

Civil Appeal No.153 of 2020
(PLA filed on 01.10.2019)

1. Talib Hussain son of Fazal Ellahi,
2. Nasir Ali son of Sardar Ali, caste Gujjar,
r/o Rangpur, Tehsil and District Mirpur.

.... APPELLANTS

VERSUS

1. Fida Hussain son of ghulam Sarwar,
2. Saeeda Bibi,
3. Sughra Bibi,
4. Naheeda Bibi, daughters,
5. Farman Begum widow of Ghulam
Sarwar, caste Gujjar, r/o Rangpur,
Tehsil and District Mirpur.

.....RESPONDENTS

6. Azad Begum widow of Khadim Hussain,
7. Aziz un Nisa widow,
8. Khurshid un Nisa,
9. Qadeer Ali,

10. Muhammad Akram Shaheen sons of Sardar Ali,
11. Zulfiqar Hussain son of Mohammad Sadiq,
12. Rashid Hussain,
13. Tariq Mahmood,
14. Tahir Mahmood,
15. Haris Mahmood,
16. Danyal Ahmad sons of Ashiq Hussain,
17. Nihila Kausar,
18. Robi Sattrra daughters of Ashiq Hussain,
19. Nasreen Akhtar widow,
20. Abrar Ahmad,
21. Afzal Ahmad,
22. Bilal Ahmad,
23. Awaid Ahmad, sons,
24. Zafreen bibi,
25. Mariya Gulbhar daughters of Gulbhar Hussain,
26. Kaneez Akhtar,
27. Tazeem Bibi daughters of Gulbhar Hussain,
28. Kaneez Akhtar,
29. Tazeem bibi daughters of Rehman Jan,
30. Naseem Akhtar widow,
31. Mohsin Ali son,

32. Maryam daughters of Shadam Hussain,
33. Inayat Hussain husband of Naseem Akhtar,
34. Ansar Mahmood,
35. Arshad Mahmood,
36. Sajjat Inayat,
37. Noreen daughters of Nasim Akhtar,
38. Sakina Bibi,
39. Jan begum daughters of Fazal Ellahi, r/o Rangpur, Tehsil and District Mirpur.

....RESPONDENTS

(On appeal from the judgment/order of the High Court dated 23.05.2019 in revision petition No. 80 of 2018)

FOR THE APPELLANTS: Ch. Jahandad Khan,
Advocate.

FOR THE RESPONDENTS: Miss Nosheen Iqbal,
Advocate.

Date of hearing: 24.02.2020

JUDGMENT:

Raja Saeed Akram Khan, J.— The titled appeal by leave of the Court has been directed against the judgment/order of the High Court dated 23.05.2019, whereby the

revision petition filed by the appellants, herein, has been dismissed.

2. The facts necessary for disposal of this appeal are that the appellants, herein, filed a suit for declaration-cum-possession in respect of the land measuring 1 *kanal* 13 *marla* and 3 *sarsai*, situate at village Rangpur, Tehsil and District Mirpur in the Court of Civil Judge Court No.1, Mirpur. The suit was dismissed on 19.04.2017. During pendency of appeal before the District Judge, an application for amendment in the plaint was filed by the appellants, herein. The learned District Judge after hearing the parties dismissed the application vide order dated 14.05.2018. Feeling dissatisfied from the said order, the appellants, herein, filed a revision petition before the High Court. After necessary proceedings, the learned High Court dismissed the revision petition vide impugned

judgment/order dated 23.05.2019, hence, this appeal by leave of the Court.

3. Ch. Jahandad Khan, Advocate, while appearing on behalf of the appellants submitted that the judgments/orders passed by the learned District Judge and the learned High Court are against law and the facts, which are not sustainable in the eye of law. He submitted that the appellants through amendment want to challenge the entries made in the revenue record on the strength of such decree which was later on rectified by the concerned Court. The proposed amendment is necessary for just decision of the case and the same does not affect the right of any party. He finally submitted that proposed amendment also does not change the complexion of the suit or cause of action.

4. Miss Nosheen Iqbal, Advocate, the learned counsel for the respondents controverted the arguments of the learned counsel for the appellants to some extent; however, at the end of the day, she submitted that if the amendment is allowed subject to payment of reasonable cost she will have no objection.

5. In the light of the submissions made by the counsel for the parties, we have perused the contents of the plaint as well as the application filed for amendment. After perusing the same we are satisfied that due to the proposed amendment neither the complexion of the suit nor cause of action is being changed; therefore, in view of the submission made by the learned counsel for the respondents, the application filed for amendment in the plaint is allowed subject to payment of cost to the tune of Rs.10,000/- to

be paid to the defendants. The cost amount shall be deposited by the appellants in the trial Court within a period of fortnight and in case of failure the application filed for amendment shall be deemed to be dismissed.

The appeal stands accepted in the terms indicated hereinabove.

JUDGE

JUDGE

Mirpur,
24.02.2020