

**IN THE SUPREME COURT OF PAKISTAN**

(Appellate Jurisdiction)

**PRESENT:**

Mr. Justice Yahya Afridi  
Mr. Justice Syed Hasan Azhar Rizvi

**Civil Petition No.1182-L of 2018**

[Against the order dated 14.03.2018 passed by the Lahore High Court in Civil Revision  
No.70548 of 2017 ]

***Akhtar Nasir Ahmed***

*...Petitioner(s)*

***Versus***

***Province of Punjab  
through District Collector Gujrat & others***

*...Respondent(s)*

For the Petitioner(s) : Mr. Ghulam Farid Sanotra, ASC

For the Respondent No.1-3 : Mr. Baleegh-uz-Zaman Ch., Additional  
Advocate General, Punjab

For the Respondent No.4 : In-person

For the Respondent No.5-12 : Nemo

Date of Hearing : 19.09.2024

**JUDGMENT**

**Syed Hasan Azhar Rizvi, J.** Through this petition, the petitioner has called in question the order dated 14.03.2018 passed by the Lahore High Court in Civil Revision No.70548 of 2017 whereby petitioner's Revision Application was dismissed.

2. The brief facts of the case are that the petitioner instituted a suit for declaration, challenging the validity of the mutation of inheritance No. 2165 executed/prepared on 22.11.1982, to the extent of the 7/72 share sanctioned in the name of Respondent No. 4. It has been asserted that the petitioner's father, Ch. Akbar Ali, was the owner of land measuring 258 Kanals in Village Khanwali, Tehsil & District Gujrat, and he passed away on 29.06.1982. The petitioner alleged in the suit that the property belonged to his father, and Respondent No. 4, being

the son of the petitioner's predeceased sister, was not entitled to receive any share of the property.

3. Initially, the suit was decreed by the trial court by judgment and decree dated 07.11.2013. However, on appeal (C.A.163/2013) against the said decision, the District Court, vide judgment dated 04.12.2014, set aside the trial court's decision and remanded the matter to the trial court for fresh consideration after framing the issue of limitation. Thereafter, the suit was dismissed by the trial court by judgment dated 16.05.2015 on the ground of being barred by time. An appeal against this decision also resulted in dismissal, vide the judgment dated 19.04.2017. The findings of the trial and appellate courts were subsequently affirmed by the High Court, which also dismissed the suit on the basis of limitation through impugned judgment. Hence, this petition.

4. Learned counsel for the petitioner contends that the petitioner was residing in Canada and was unaware of the alleged mutation entries; that the law of limitation does not apply in inheritance matters; and that the impugned judgment suffers from illegality, infirmity, as well as misreading and non-reading of the evidence, thus, prays for setting aside the impugned judgment.

5. On the contrary, learned Counsel for the Respondent No.1-3 supports the impugned judgment. Respondent No. 4, appearing in person, contends that impugned judgment is well-reasoned; the mutation was carried out in the presence of the petitioner's brother and that the petitioner was fully aware of the mutation and there are concurrent findings by the three courts below in this regard.

6. We have heard the learned counsel for the parties and perused the material available on the record.

7. Perusal of the record demonstrates that mutation entries in respect of the land measuring 7/72 in favor of respondent No.1 were sanctioned in 1982. However, the petitioner instituted the suit for the first time in 2009 after a lapse of more than 27 years. No explanation whatsoever has been provided by the petitioner for the delay in filing the suit before the trial court.

8. Learned counsel for the petitioner's contention that petitioner was residing in Canada therefore was not aware of the alleged mutation of inheritance has been elaborately considered by the learned High Court as reproduced below:-

"6. I have gone through the plaint in the suit for declaration filed by the petitioner-plaintiff. According to the contents of the plaint, not a single word regarding residence of the petitioner-plaintiff in Canada was mentioned. Even the address of petitioner-plaintiff was mentioned as "Khanwali, Tehsil and District Gujrat, presently residing at Chanab Nagar, District Chiniot." In the body of plaint, there is no mentioning about the residence of petitioner-plaintiff abroad (Canada).

7. In these circumstances, the argument advanced by the learned counsel for the petitioner is absolutely worthless and cannot be given weight as if the plaintiff was out of country at the time of filing of suit; he was required to specifically plead this fact in the plaint.

Furthermore, with regard to filing of the suit, he was required under Rule 6 of Order VII of the CPC to seek exemption from Limitation Law. Not a single word has been pleaded in this regard therefore the argument advanced before this court seems to be of no value and as such not considerable."

9. The learned counsel for the petitioner has relied on the case of Ghulam Ali (PLD 1990 SC 1) to argue that law of limitation does not attract in inheritance cases. However, this contention holds no merit, as this court has clarified in the case of "Mst. Grana through LRs & others v. Sahib Kamala Bibi & others (PLD 2014 SC 167) that:-

"6. It appears that in a suit which involves some elements of inheritance, the courts are generally quick to declare

that law of limitation could not be attracted. **It is not in all cases of inheritance that question of limitation become irrelevant. Even in Ghulam Ali's case, the court recognized that there could be exceptional circumstances wherein a suit based on inheritance issue of limitation may become relevant. This court recently in some cases had invoked the principle of time limitation and acquiescence of the plaintiff material in suits of inheritance.** In Mst. Phaphan..Vs.. Muhammad Bakhsh (2005 SCMR 1278) a suit for declaration and possession was filed in the year, 1983 by plaintiff/petitioner claiming to be the owner of inherited property. The suit was held to be barred by time wherein mutations of the year, 1959 and 1967 were challenged in the year, 1983 when the plea of defendant was that the plaintiff had alienated the property of her own free will. The plaintiff plea of being pardha nasheen lady and reliance of Ghulam Ali's case was not accepted as the plaintiff was found in deep slumber for 24 years despite the fact that physical possession of the land was passed to the defendants. Recently in the case of Lal Khan..Vs.. Muhammad Yousaf (PLD 2011 SC 657) this court had set-aside the concurrent findings of three courts and dismissed the suit filed on 13.5.1970, where the plaintiff had challenged the inheritance mutation of 13.02.1947; the court held it to be barred by time.

**[Emphasis added]**

10. The rationale of the law of limitation has been reiterated in Atta Muhammad v. Maula Bakhsh (2007 SCMR 1446) where the concurrent findings of the three Courts were set aside and the suit filed by the plaintiffs in the year 1988 questioning the inheritance mutation of 1942 was declared to be barred by time.

The Court held:--

"The law of limitation provides an element of certainty in the conduct of human affairs. Statutes of limitation and prescription are, thus, statutes of peace and repose. In order to avoid the difficulty and errors that necessarily result from lapse of time, the presumption of coincidence of fact and right is rightly accepted as final after a certain number of years. Whoever wishes to dispute this presumption must do so, within that period; otherwise his rights if any, will be forfeited as a penalty for his neglect. In other words the law of limitation is a law which is designed to impose quietus on legal dissensions and conflicts. It requires that persons must come to Court and take recourse to legal remedies with due diligence. There have been cases where even to claim inheritance law of limitation was applied."

11. The law of limitation is founded on the principle of "*Vigilantibus non dormientibus jura subveniunt*," meaning "the law assists the vigilant, not those who sleep on their rights." This principle forms a cornerstone of justice, reinforcing that the law

favors those who act promptly and diligently. It emphasizes that individuals must be active in asserting their rights and those who fail to do so within a reasonable time should not expect the courts to intervene in their favor.

12. Law of limitation is not just a technical formality but a crucial component of a well-functioning legal system. It provides a framework that ensures legal matters are addressed promptly, preventing evidence from being lost, memories from fading, and facts from becoming distorted over time. Furthermore, it protects potential defendants from being subjected to claims long after they could reasonably expect such challenges, fostering certainty and finality in legal matters. By requiring claimants to act within a specific period, the law promotes diligence and responsibility in the pursuit of legal remedies. Those who neglect to assert their rights, as in this case, effectively forfeit their ability to challenge matters that could have been addressed much earlier.

13. In the present case, the petitioner's inaction for over 27 years clearly demonstrates a failure to uphold this principle. The law of limitation exists to prevent precisely this kind of neglect, ensuring that claims are brought forth when evidence is fresh and facts are clear. To allow this claim after such an extraordinary delay would not only undermine the integrity of the legal system but would also set a dangerous precedent, suggesting that legal rights can be asserted at any time, regardless of the passage of decades.

14. At this juncture, it is important to note that none of the legal heirs of Ch. Akbar Ali have ever challenged the validity of the mutation No.2165 dated 22.11.1982 in the name of

Respondent No.4. Even the legal heirs of Ch. Akbar Ali arrayed as defendants/Respondents in the suit/petition have not contested legal proceedings in any manner before any court/forum.

15. Since the petitioner has not been able to overcome the hurdle of limitation, therefore, it would be inappropriate to address the substantive merits of the case. The learned High Court has rightly considered all aspects of the matter, and there are concurrent findings by the three *fora* below. Generally, this Court does not interfere with concurrent findings unless they are perverse, arbitrary, fanciful, or capricious, which, in our view, is not the case here.

16. In view thereof, we find the impugned judgment to be well-reasoned. Neither any misreading and non-reading nor any infirmity or illegality has been noticed on the record which could make a basis to take a contra view. Learned counsel for the petitioner has failed to make out a case for interference.

17. Consequently, this petition, being devoid of merit, is dismissed and leave refused.

**JUDGE**

**JUDGE**

Islamabad

**APPROVED FOR REPORTING**

Paras Zafar, LC\*

Announced in Open Court on 09-10-2024