

JUDGMENT SHEET
IN THE COURT OF MEMBER-V, BOARD OF REVENUE, JUD-III,
KHYBER PAKHTUNKHWA

BILAWAR JAN ETC

PETITIONERS

VERSUS

SAJID HALEEM ETC

RESPONDENTS

Case No. 52-53/MBR-V/2025-26

Date of Institution; 21.01.2026

Date of Decision; 08.10.2026

REVISIONS AGAINST THE ORDER OF ADDITIONAL
COMMISSIONER KOHAT DATED 04.12.2025

This consolidate single order shall dispose of above mentioned two connected revisions filed by petitioners as common question of law and facts are involved. Petitioners have impugned the order of Additional Commissioner Kohat, dated 04.12.2025 vide which appeals of petitioners were turned down and orders of ADC Kohat and AAC Rev, Kohat were maintained whereby, mode of partition was adopted.

2. Facts of the case are that respondents filed application for partition u/s-135 of the Land Revenue Act before the court of AAC Rev, Kohat in respect of suit land mentioned in partition application in Mouza Barh. Petitioners raised the issue of jurisdiction u/s-136 of the Ibid Act. Commission submitted report and objections of petitioners were rejected and mode of partition was adopted on 17.04.2025. Subsequently appeals and revisions of petitioners were concurrently dismissed by ADC Kohat on 22.07.2025 and by Additional Commissioner Kohat vide impugned order, dated 04.12.2025. Therefore, they preferred connected two revisions.

3. I have heard in detail learned counsels for parties and perused record of the case.

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4. Learned counsel for petitioners contended that partition of suit land is beyond jurisdiction of Revenue Court u/s-136 of the Land Revenue Act. That suit land is mostly abadi and gahir mumkin graveyard. That Ahle Commission in collusion with respondents wrongly prepared report of spot. That some of suit land is in the shape of plots and suit land is no more agricultural to be partitioned u/s-135 of the Ibid Act. That Commission has not visited spot and prepared report in office. That petitioners were not noticed.

That partition is about eight Khatas but respondents were allotted shares in four valuable Khatas. That each Khata is separate unit for the purpose of partition and allotment should have been made following principles of kamil and naqis. That possession of petitioners was disturbed and allotted to respondents against the principles of partition. That Common Masjid, Pond, graveyard and paths were not considered during partition. That Khata wise mode was appropriate.

5. On the contrary learned counsel for respondents opposed the contention and averred that correct and just partition was made. That suit land is joint and agricultural and well within jurisdiction of Revenue Court u/s-135 of the Land Revenue Act. That parties are recorded co sharers. That when petitioner raised the issue of nature of suit land Commission visited the spot and reported accordingly and then partition was sanctioned. That due recorded shares were allotted and excess from petitioners was taken away according to principles of partition. That petitioners want to maintain excess possession by objecting on mode of partition. That petitioners were provided ample opportunity and they also filed objections which were rightly rejected. That Commission prepared mode of partition on spot in presence of parties. That there is no illegality in the impugned concurrent orders of subordinate Revenue Courts.

6. From the valuable arguments of learned counsels for parties and record of the case it is evident that it remained hotly contested partition and when respondents filed partition, petitioners raised the issue that suit land is mostly built up and beyond jurisdiction of Revenue Court u/s-136 of the Land Revenue Act. The AAC Rev, Kohat on 28.10.2024 appointed Commission to visit spot and it submitted report. On 23.12.2024 after providing ample opportunity to petitioners' Commission was directed to prepare mode of partition. This order was not challenged by petitioners and it got finality. On 17.03.2025 Commission submitted mode of partition and objections were invited. On 24.03.2025 petitioners filed objections.

7. The AAC Rev, Kohat on 17.04.2025 after hearing to parties sanctioned mode of partition with observations that twice Commission determined nature of suit land. Objections were rejected.

8. Aggrieved of this order petitioners assailed it in appeals before the court of ADC Kohat and same were dismissed on 22.07.2025 with findings that parties are recorded co sharers and every co sharer has right to partition. It was held that petitioners were provided sufficient opportunity and they could not establish that suit land is abadi etc.

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9. Still aggrieved petitioners filed two revisions before the court of Additional Commissioner Kohat and same were also turned down vide impugned order, dated 04.12.2025 with observations that suit land is joint and nqasha moqa establishes the fact that suit land is agricultural and partitionable. It was held that due shares were allotted.

10. The consistent objection of petitioners is about nature of suit land. They claim suit land to be abadi etc and beyond jurisdiction of Revenue Court u/s-136 of the Land Revenue Act. Perusal of Revenue Record confirms that most of suit land is agricultural. There are few houses but same are excluded from partition as Civil Court has the jurisdiction. The report of Commission dated 07.01.2024 supports the contention for respondents that suit land is not abadi etc. Mere plotting will not oust jurisdiction of Revenue Court. Record shows that Commission informed petitioners and they acknowledged notices. Therefore, they cannot say that Commission has not visited the spot in their presence. Report of Commission about proposed mode of partition reveals that respondents are owners of 8k-12m-5ft out of total 149k-9m. Record shows that due shares were allotted to parties commensurate to ownership. There is no excess allotment to respondents.

11. Petitioners also agitated the point of disturbance of possession but with no specific reference. It appears that excess was taken and allotted to respondents. During partition u/s-135 of the Land Revenue Act and according to golden principles excess is taken away and allotted to co sharers with no possession or with less possession. Excess possession cannot be allowed to be retained only for the reason that some improvements have been made or same portion of land remained in long possession. In view of this court fair and just partition was made and there appears no flaw in mode of partition.

12. In PLD 2008 Peshawar 97, it was held that u/s-172 of the Land Revenue Act jurisdiction of Civil Court is barred in partition of agricultural property and its partition is domain of Revenue Court. In Civil Court respondents may take the stance that suit land is agricultural as per Revenue Record and this court shall consider this point. Reliance is also made on 2021 MLD 1141, Baluchistan Sibi Bench & 2024 CLC 125.

13. PLD 2008 Peshawar 97, also observed that whether the land or its major portion was covered by abadi or the same was exclusively agricultural land, was a spot related question, which could be determined by trial court after appointing Commission. In present case Commission was appointed and it confirmed suit land to be agricultural.

14. It is clear to this court that Definition of agricultural land is determined only by entries in Revenue Record and report of spot and not by actual usage. If land is shown in ownership column as agricultural, and no notification of conversion to urban/municipal property is made, revenue authorities must treat it as agricultural. Reliance is made on PLD 1991 SC 532, which held that Revenue Record is conclusive for nature of land until amended under law. In present case no changes in Revenue Record were made and Commission stated that suit land is still agricultural.

15. Keeping in view all these facts I see no merits in above mentioned two connected revisions and decline same. There is no illegality in the impugned order of Additional Commissioner Kohat, dated 04.12.2025 and it is upheld.

Order Announced
Dated 08.10.2026

(NAEEM AKHTAR)
Member-V, Board of Revenue
Naeem Akhtar
Member Board of Revenue -V
Khyber Pakhtunkhwa, Peshawar

Certified that this judgment consists of four pages & each page duly signed by the undersigned.

(NAEEM AKHTAR)
Member-V, Board of Revenue
Naeem Akhtar
Member Board of Revenue -V
Khyber Pakhtunkhwa, Peshawar