

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

GUL RAUF

PETITIONERS

VERSUS

FARMAN ALI ETC

RESPONDENTS

Case No. 83/MBR-V/2026
Date of Institution; 26.02.2026
Date of Decision; 08.10.2026

REVISION AGAINST THE ORDER OF ADDITIONAL
COMMISSIONER KOHAT DATED 10.12.2025

This order intends to dispose of above mentioned revision filed by petitioner against the impugned order of Additional Commissioner Kohat, dated 10.12.2025 vide which revision of petitioner was dismissed and orders of ADC Karak and AC Takht E Nasrathi were maintained whereby, partition was sanctioned and plea of petitioners for sine die adjournment was rejected.

2. Facts of the case are that respondents filed application for partition u/s-135 of the Land Revenue Act before the court of AC Takht E Nasrathi in respect of suit land mentioned in partition application, situated in Mouza Khojaki. Commission was appointed and when it submitted report objections were received. The AC Takht E Nasrathi on 12.07.2023 sanctioned partition. Appeal of petitioner was accepted by ADC Karak on 29.11.2023 and case was remanded to trial court for affording opportunity of hearing to petitioner. The AC Takht E Nasrathi provided opportunity of hearing and again sanctioned partition on 28.11.2024. Subsequently appeal and revision of petitioner were concurrently dismissed by ADC Karak on 26.05.2025 and by Additional Commissioner Kohat vide impugned order, dated 10.12.2025. Therefore, he preferred this revision.

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

4. Learned counsel for petitioner contended that Bonafide dispute of title is involved in present case and u/s-141 of the Land Revenue Act partition is liable to be sine die adjourned till decision of 12(2) CPC petition by learned ADJ Karak. That inheritance issue of deceased Saidu Khela was decided by civil court and on the basis of decree shares were transferred to mother of

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respondents. That petitioner has challenged the decree in 12(2) CPC petition and it was remanded by Honorable Peshawar High Court to Learned ADJ Karak. That owing to such situation partition may be sine die adjourned.

5. On the contrary learned counsel for respondents vehemently opposed the stance and averred that partition has been concluded and mutation No. 14079 was attested. That petitioner is not necessary party and not recorded co sharer to file application for sine die adjournment u/s-141 of the Land Revenue Act. That only recorded co sharer, co sharer in light of decree or registered document is necessary party u/ss-135 and 137 of the Land Revenue Act to raise such issue. That petitioner has no locus standi to agitate. That petitioner is stranger to partition proceedings. That petitioner and his other relatives have made exchange mutations No. 8636 and 8637 in 2011 and in suit Khata petitioner is no more co-owner. That mere pendency of 12(2) CPC petition will not create dispute of tile for consideration u/s-141 of the Ibid Act to sine die proceedings. That partition is legal right of every co sharer and it cannot be suspended on the whims and wishes of a stranger. Learned counsel also provided written arguments, which were perused and are placed on file.

6. From the valuable and divergent pleadings of learned counsels for parties and record of the case it transpires that respondents filed application for partition of Khata No. 467, Mouza Khojaki. It was sanctioned on 12.07.2023 and partition mutation was attested subsequently and application of petitioner for suspension of proceedings was rejected. His stance was that his 12(2) CPC petition is pending before the court of learned ADJ Karak. He mentioned that Honorable Peshawar High Court remanded the case. He filed appeal before the court of ADC Karak and it was accepted on 29.11.2023 and case was remanded to trial court to provide opportunity of hearing to petitioner. The trial court fully heard petitioner and then dismissed his plea on 28.11.2024 with observation that petitioner is not recorded co sharer in suit land.

7. Aggrieved of this order petitioner assailed it in appeal before the court of ADC Karak and it was declined with findings that in light of 2003 CLC 87 partition proceedings cannot be stayed on the assertion of the party that such question exists. It was further held that Civil Court has not issued restraining order.

8. Still aggrieved petitioner filed revision before the court of Additional Commissioner Kohat and it was dismissed vide impugned order, dated 10.12.2025 with observations that as per Revenue Record petitioner is not co sharer in suit land. It was held that mere pendency of 12(2) CPC petition will not create issue of title u/s-141 of the Land Revenue Act.

The very first observation of this court is that when petitioner is not recorded co sharer he cannot join partition proceedings. U/ss-135 and 137 of the Land Revenue Act only recorded co-owner, owner through decree or registered deed can be arrayed as necessary party to partition and further he can seek transposition to panel of petitioners' u/s-138 of the Ibid Act. Otherwise, under O.1, R. 10 CPC too petitioner is not necessary party. His application before trial court to sine die adjourn partition proceedings was not maintainable at the very outset. When he is not necessary party he cannot file application for suspension of proceedings.

9. On title dispute u/s-141 of the Land Revenue Act mere pendency of civil suit or petition u/s-12(2) CPC by itself does not create such dispute. Bonafide dispute of title is one ascertained by Revenue Officer after due diligence and only revenue officer can decide to stay partition proceedings. In present case the decree was challenged by petitioner in 12(2) CPC petition and yet he has to establish his claim. Till then partition which has been concluded cannot be allowed to be not executed. There is no justification for suspension. If the Civil Court grants decree to petitioner, it can be executed accordingly but at the moment proceedings cannot be stayed on the whims and wishes of petitioners.

10. I shall take wisdom for following case law,

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1. PLJ 2017, Peshawar 18, Mingora bench held that presumption of truth is attached to Revenue Record u/s-52 of the Land Revenue Act. Any co sharer can file application for partition u/s-135 of the Ibid Act and u/s-141 of the Ibid Act partition cannot be sine die adjourned in the garb of title dispute.
2. 2021 MLD 154, Peshawar observed that mere institution of civil suit by any of the parties on their own motion could not restrict the Revenue Officer to proceed in the matter of partition of a joint land.
3. 2003 CLC 87, BOR NWFP held that u/s-141 of the Land Revenue Act, Revenue Officer can ascertain existence or absence of title dispute to proceed accordingly and partition proceedings cannot be stayed on the whims and wishes of a party.
4. W.P No. 2976/2019, dated 04.11.2019, Peshawar Mingora bench held that partition proceedings and civil litigation can go side by side and mere pendency of civil suit ipso facto does not create dispute of title to suspend partition proceedings.

11. Foregoing in view as petitioner is not recorded co sharer in suit land he is not justified to seek suspension of proceedings. This revision is devoid of merits and is dismissed. There is no legal infirmity in the impugned order of Additional Commissioner Kohat, dated 10.12.2025 and same is upheld. Execution to proceed u/s-146 of the Land Revenue Act.

Order Announced
Dated 08.10.2026

08.

(NAEEM AKHTAR)
Member-V, Board of Revenue
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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