

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

AMIN KHAN ETC

PETITIONERS

VERSUS

KAMRAN

RESPONDENTS

Case No. 129/MBR-V/2026

Date of Institution; 13.04.2026

Date of Decision; 08.10.2026

REVISION AGAINST THE ORDER OF ADDITIONAL
COMMISSIONER KOHAT DATED 26.02.2026

This order shall dispose of above mentioned revision filed by petitioners against the impugned order of Additional Commissioner Kohat, dated 26.02.2026 vide which appeal of petitioners was turned down and orders of ADC Kohat and AC Kohat were upheld whereby, application of respondent for possession was accepted and warrant of possession was issued.

2. Facts of the case are that respondent filed application to AC Kohat for possession of Khasra No. 4461, Mouza Shadi Khel. After hearing to parties and report of Revenue Officials the application was accepted and warrant of possession was issued on 13.02.2025. Appeals of petitioners were concurrently dismissed by ADC Kohat on 06.05.2025 and by Additional Commissioner Kohat vide impugned order, dated 26.02.2026. Therefore, they preferred this revision.

3. I have heard in detail learned counsel for petitioners and record of the case. Respondent could not ensure presence of counsel despite notice under O. 17, R.3 CPC and his right of defense is stuck off to decide the case on point of merit.

4. Learned counsel for petitioners contended that suit land in Khasra No. 4461 measuring 284k-9m is shamilat and banjar qadeem and as per Khasra Girdawri in possession of Pir Haidar Ali Sha. That petitioners are ghair dakhilkaars. That suit for possession is not jurisdiction of Revenue Court and u/s-9 of Specific Relief Act and illegal dispossession act civil court has the jurisdiction. That despite this AC Kohat without jurisdiction and without summoning petitioners issued warrant of possession. That such orders are void ab initio. That petitioners were condemned unheard in violation of law, norms

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of justice and constitutional provision of fair trial as enshrined in art 10-A. That report of Revenue Officials was not considered according to which petitioners are not in possession and respondent is not recorded owner but his father is, who is alive and respondent has no power of attorney. That according to report of Halqa Patwari encroachment of 150 ft was found with petitioners in Khasra No. 4537 and not 4461. That still warrant of possession was unlawfully issued. That application of respondent is about Khasra No. 4461 but warrant of possession was issued for 110k-11m in Khasras 4537,4499,4505 & 4508. That respondent is land grabber.

5. From the valuable arguments of learned counsel for petitioners and record of the case it transpires that respondent submitted application before DC Kohat and alleged that petitioners have grabbed his 5 jareeb land in Mouza Shadi Khel. No specification of land was given. The application is for possession. It was marked to AC Kohat.

6. With the application a copy of site sketch is annexed prepared by local police and between ownership of respondent and dispute land kajori dhok kacha road is passing. In disputed land on right is house of petitioner and on left is house of respondent. Report of Halqa Patwari reveals that land measuring 80k in Khasra 4461 is entered in the name of father of respondents Syed Sabir Sha. In No. Khasra 4498 his ownership is 90k. It was reported that petitioner has illegally occupied suit land.

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7. The application of respondent was replicated by petitioners with stance that in suit Khasra there are many owners and it is shamilat and joint. It was also mentioned that respondent No.1 is not recorded owner. On 13.02.2025 the AC Kohat issued warrant of possession. It is strange because at the very outset of proceedings point of jurisdiction was required to had been decided. It is matter of illegal dispossession and father of respondent No. 1 is owner, who has not filed application. Then respondent No. 1 has no power of attorney. If it is believed that petitioners are in illegal possession still the AC Kohat was not having jurisdiction in the matter to issue warrant of possession.

8. Aggrieved of this order petitioners assailed it in appeal before the court of ADC Kohat and it was declined on 06.05.2025 with findings that petitioners are ghair dakhilkaars and respondent is owner. This not backed by Revenue Record according to which respondent is not owner in suit land.

9. Still aggrieved petitioner filed further appeal though revision was competent before the court of Additional Commissioner Kohat and it was also turned own vide impugned order, dated 26.02.2026 with observation that trial court has inquired the matter through revenue authority, which corresponds to

the record that present respondent also has ownership in Khasra No. 4461, thus he is entitled for possession, to the extent of his shares whereas appellants are ghair dakhilkaars. If such was the position then suit for ejectment under Tenancy Act was maintainable and ejectment on application without recording evidence was not the legal course.

10. In present case factor of illegal possession is involved and for it, Revenue Court has no jurisdiction. U/s-5 of the illegal dispossession act and section 9 of Specific Relief Act and only Civil Court has the jurisdiction in the matter. The AC Kohat issued warrant of possession on application for possession of respondent, who is not recorded owner in suit land. His father has ownership and there is no power of attorney from his father on record. Jurisdiction is at the core of proceedings and when revenue hierarchy has no jurisdiction in the matter the orders passed are void ab initio and not maintainable.

11. Keeping in view all these facts this revision is having merits and it is accepted. The impugned orders of AC Kohat, ADC Kohat and Additional Commissioner Kohat, dated 13.02.2025, 06.05.2025 and 26.02.2026 are without jurisdiction and void ab initio and same are hereby set aside. Respondent is directed to approach proper forum.

Order Announced
Dated 06.10.2026

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

Certified that this judgment consists of three 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