

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

ABDUL SALIM

PETITIONERS

VERSUS

MUHAMMAD HUSSEIN ETC

RESPONDENTS

Case No. 56/MBR-V/2026

Date of Institution; 16.12.2025

Date of Decision; 06.10.2026

REVISION AGAINST THE ORDER OF ADDITIONAL
COMMISSIONER KOHAT DATED 27.11.2025

This order shall dispose of above mentioned revision filed by petitioner against the impugned order of Additional Commissioner Kohat, dated 27.12.2025 vide which appeal of petitioner was dismissed and order of ADC Karak was upheld whereby, correction in revenue record was ordered. Precise facts of the case are that respondent No. 1 submitted application to ADC Karak for correction of Revenue Record in respect of shamilat in Khata No. 1751, Khasra No. 2543, measuring 461k-3m in Mouza Teri. Report was obtained from Revenue Officials and on 05.09.2025 the ADC approved correction. Appeal of petitioner was dismissed by Additional Commissioner Kohat vide impugned order, dated 27.11.2025. Therefore, he preferred this revision.

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

3. Learned counsel for petitioner contended that he was condemned unheard in violation of law, norms of justice and constitutional provision of fair trial as enshrined in art 10-A. That ADC Karak unlawfully allowed correction just on the recommendations of Revenue Assistant without hearing to petitioner. That sections 42, 53 and 117 of the Land Revenue Act were referred but same are not applicable to correct revenue record. That section 42 is related to register of mutations, section 53 is exclusive jurisdiction of civil court and section 117 is about demarcation. That long-standing Revenue Entries of 1975 were ordered to altered in one sided manner arbitrarily. That Additional Commissioner Kohat also ignored the blatant violation of law and he also committed gross illegality. That order passed without jurisdiction is void ab initio. That sanctity is attached to long-standing Revenue Entries and

Naeem Akhtar
Member Board of Revenue-V
Khyber Pakhtunkhwa, Peshawar

only Civil Court can adjudicate the matter after recording pro and contra evidence. Learned counsel relied on judgment of Honourable Peshawar High Court, Bannu Bench in Cr. No. 13-B/2004, dated 14.04.2025.

4. On the contrary learned counsel for respondents vehemently opposed the stance and averred that wrong entries in Khasra Girdawri were made in favour of petitioner. That on application of respondents' proper inquiry was conducted through Revenue Officials and detail recommendations were submitted before ADC Karak, who rightly directed for correction. That more than due share was earlier entered in the name of petitioner. That Revenue Officer has exclusive jurisdiction to rectify errors in Revenue Record and there is no legal bar on it. That respondents are original owners and petitioner is purchaser but his name is not included in list of original owner and his name was wrongly entered in shamilati Khasra 2543. That clerical mistake can be corrected by Revenue Officer on his own anytime. Learned counsel relied on 2015 CLC 1445, BOR Punjab & 2025 SCMR 174 SC.

5. From the valuable arguments of learned counsels for parties and record it transpires that respondent No. 1 filed application before Collector/DC Karak seeking correction of Revenue Record of Khata No. 1751, Khasra No. 2543, measuring 461k-3m in Mouza Teri. He alleged that petitioner belong to inferior class and till 2003-04 his name was not entered in Revenue Record but in jamabandi 2007-08 his name was entered as owner to extent of 50k without any mutation. This application was filed on 13.08.2024.

Naeem Akhtar
Member Board of Revenue
District Peshawar, Peshawar

6. The application was assigned to ADC Karak and was marked to Revenue Officials and the reader revenue summed up the facts and recommendations on a note part. It was admitted that petitioner has mutations including of shamilat but disproportionate shares were entered in his name. It was observed that petitioner is in excess possession. Section 53 was referred, which is not relevant to shamilat. For unauthorised occupation section 117 was referred, which is about demarcation. Without ascertaining due share of petitioner it was held that he is in excess possession. It was recommended to correct Khasra Girdawri, update Revenue Record and cancel entries of excess land in favour of petitioner.

6. On 21.08.2025 the ADC Karak issued summons to parties. The order sheet, dated 05.09.2025 reveals that parties were heard but there is no reply of petitioner on record. Then ADC Karak has not applied independent judicial mind but approved the recommendations of his reader. A judicial matter cannot be decided in executive manner. Where the law prescribes a particular way for performing an act, it should be done so, otherwise it is nullity in the eyes of law. Learned counsel for petitioner strongly denied the

observation that he was heard. He alleged that no notice was issued to him and it is believable because there is nothing on record to establish effective notice service. In such scenario fair trial was denied to petitioner and he was condemned unheard.

7. Aggrieved of this order petitioner assailed it in appeal before the court of Additional Commissioner Kohat and vide impugned order, dated 27.11.2025 it was declined with findings that both parties were called and heard. However, it was held that presence of counsel is not mandatory. Additional Commissioner Kohat referred to sections 53 and 172 of the Land Revenue Act and it is astonishing. Then on one hand it was held that petitioner is not entitled to shamilat and on other hand it was observed that petitioner is having excess share. This is contradiction. Neither section 53 is for Revenue Court nor section 172 permits to alter longstanding entries in Revenue Record.

8. At the very outset instant issue is of title and only Civil Court has jurisdiction u/s-53 of the Land Revenue Act. Revenue Court cannot assume jurisdiction of Civil Court to rectify long-standing Revenue Entries. Other sections of the Land Revenue Act referred by ADC, Karak and additional commissioner Kohat are also not relevant to order correction of Revenue Record. Revenue Court can correct only clerical mistakes u/s-163 and 166 of the Land Revenue Act and present issue is intricate one of title. It is not matter of clerical mistake to be rectified in summary proceedings by revenue officer. In order to determine intricate question of law and facts framing of issues and recording of pro and contra evidence are mandatory. In present case no issues were framed and no evidence was recorded and further Revenue Court has no jurisdiction in the matter. Thus, an order passed without jurisdiction is void ab initio and not sustainable. Most importantly concept of fair trial and principle of audi alteram partem were blatantly violated.

Naeem Akhtar
Member Board of Revenue-V
Sub-Division Peshawar

9. Learned counsel for respondent cited 2015 CLC 1445, BOR, Punjab, which held that u/s-166 and 172 sub 2 sub vi of the Land Revenue Act collector can rectify errors in Revenue Record. The judgment is related to correction of clerical mistakes and not complex issues of title.

10. Learned counsel for respondent also relied 2025 SCMR 174 SC, which held that u/s-42 of the Land Revenue Act without valid mutation no revenue entry will survive. Present issue is not of recently attested mutation only but intricate matter of title of long-standing revenue record. In his application to collector, respondent admitted that in 2007-8 jamabandi entries were made in favour of petitioner. The question is then why respondent waited till 13.08.2024?

11. Learned counsel for petitioner relied on judgment of Honourable Peshawar High Court, Bannu Bench in Cr. No. 13-B/2004, dated 14.04.2025. It held that issues related to long standing Revenue Record involving title and rights should be decided by Civil Court, and the District Collector lacks jurisdiction to alter these entries via a miscellaneous application, especially without providing opportunity of hearing to all other co sharers, whose rights are thereby affected.

12. On this subject the principle was settled in PLD 2019, Peshawar 208, 2013 SCMR 299, 2014 SCMR 1469, 2017 SCMR 679, PLD 2022 SC 13.

13. Foregoing in view this revision being based on merits is accepted. There are gross illegalities in the impugned orders of ADC Karak and Additional Commissioner Kohat, dated 05.09.2025 and 27.11.2025 and these are hereby set aside. The Revenue Entries in the name of petitioner are restored. Respondent can seek remedy before Civil Court having jurisdiction in the matter.

Order Announced
Dated 06.10.2026

(**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