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

FIDA HUSSEIN **PETITIONERS**

VERSUS

GULFAM HUSSEIN **RESPONDENTS**

Case No. 187/MBR-V/2026

Date of Institution; 16.07.2026

Date of Decision; 03.11.2026

REVISION IN LIGHT OF JUDGMET OF HOORABLE PESHWAAR HIGH COURT DATED 03.07.2025

This revision was remanded by Honorable Peshawar High Court vide judgment, dated 03.07.2025 by setting aside order of this court, dated 16.09.2025 vide which revision of petitioners was accepted and orders of AAC Rev, Kurram, ADC Kurram and Additional Commissioner Kohat were set aside and Denovo partition was directed. The Honorable Peshawar High Court has directed to provide opportunity of hearing to respondents and decide the matter afresh. In compliance parties were summoned and record was requisitioned.

Facts of the case are that partition of shamilat lands in Shalozan, Luqma Khel and Kara Khela road, Upper Kurram was sanctioned after Jirga proceedings by AAC Kurram on 12.10.2022 while rejecting objections of petitioners. Appeal and revision of petitioners were concurrently turned down by ADC Kurram on 16.08.2023 and by Additional Commissioner Kohat vide impugned order, dated 07.12.2023. Second revision of petitioner No. 21/MBR-I/2024 was accepted by this court on 16.09.2025 and orders of subordinate revenue courts were set aside and AAC Rev, Kurram was directed for Denovo partition. This was ex parte order against respondents and their W.P. No. 9333-P/2025 was allowed by Honorable Peshawar High Court on 03.07.2026 and case was remanded to this court for providing opportunity of hearing to respondents and then decide the case afresh.

I have heard in detail arguments of petitioners in person, learned counsel for respondents and also perused record of the case.

Naeem Akhtar
Member Board of Revenue
Khyber Pakhtunkhwa, Peshawar

Petitioners stated that in previous round partition was imposed upon co sharers by a so called jirga although now Land Revenue Act is applicable to the area.

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That partition was not made according to section 135 of the Land Revenue Act, chapter 18 of the land record manual and section 7 of the Wajibul Arz. That suit land is shamilat and every co-owner is entitled to it hasbe rasad kehwat but in partition this principle was violated. That few individuals cannot be allowed to usurp rights of co sharers. That jirga enhanced households from 387 to 934 without justification. That in previous round this court made effective notice service and all the issues were thread barely examined and speaking order was passed. That pick and choose were made in partition and valuable lands were allotted to selected Jirga members. That partition was not made commensurate to recorded ownership. That jirga system was abolished by virtue of 25th amendment to the constitution and now partition is required to be made according to revenue laws and principles of partition. That respondents are land grabbers and they want to usurp rights of legitimate owners.

On the contrary learned counsel for respondents vehemently opposed the stance and averred that partition of shamilat was strictly made in accordance with riwaj of the area. That hectic efforts were made by jirga and local administration as well law enforcement agencies. That owners furnished waak to Jirga and decision of Jirga is binding. That petitioners participated through representatives and gave consent to partition. That households were enhanced to accommodate all owners. That it was a sort of private partition concluded with hectic efforts of elders of each plareena. That each plareena selected its elder and all these elders constituted the Jirga after proper agreement. That deed was signed by all elders. That in civil suit petitioners are respondents. That respondents received land compensation for various govt projects and partition is now closed and passed transaction. That haji Munir Hussein and others represented petitioners. That objections of petitioners are not justified and are devoid of merits. That still after 25the amendment jirga is useful institution as there is law and order situation is the area and the area is in a transition phase. That petitioners are demanding excess shares. That Jirga members are required to be compensated for their day and night services and hectic efforts. That partition application of petitioners does not fulfill requirements of section 135 of the Land Revenue Act.

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

In compliance with the judgment of Honorable Peshawar High Court, dated 03.07.2026 this court has to decide the revision afresh in light of arguments of both parties. It is to be mentioned that in previous round respondents were proceeded ex parte and they were not heard.

From the valuable arguments of parties and record it transpires that petitioners submitted objection petition to AAC Rev, Kurram on 05.01.2022. They stated

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that partition was made by Qabaza Mafia, who without justification enhanced households from 387 of 1958 census to 934. They pointed that household share was reduced from 30k to 10k and partition was made not according to Revenue Record. The objections also include allotment to sellers, 20k each to Jirga members in commercial valuable lands, illegal occupants, depriving original owners, Pardha Nasheen ladies, orphans and govt servants/ owners of the area. They also claimed that Luqma Khel, Noorki and Larzar tribes have also received land compensation for acquisition of IT University and amount of land compensation of Barzar Tribe is still in treasury. The crux is that fair and just partition among owners of four tribes was not made according to law and norms of justice as well principles of partition. This court considers these as objections on mode of partition u/s-142 of the Land Revenue Act. This is not partition application to be examined as not fulfilling requisites of section 135 of the Ibid Act. Petitioners annexed settlement record with this application.

The AAC Rev, Kurram obtained report of Revenue Officials. Patwari Halqa reported on 18.01.2022 that Shalozan Barzar is comprising of 387 households and partition committee has unlawfully enhanced same to 934. Likewise, Girdawar Circle referred to a case before August Supreme Court of Pakistan.

The AAC Rev, Kurram on 12.10.2022 directed petitioners to approach appropriate forum i.e elders of their respective tribe, who participated in partition as representatives. The issue before AAC Rev, Kurram was to have cross checked the objections with partition order approved after a committee report. U/s-142 of the Land Revenue Act Revenue Court is entrusted with the responsibility to decide such objections in judicious manner in light of law and record. The point needed consideration that why households were increased from 387 to 934? Referring petitioners to jirga elders is not justified and AAC Rev, Kurram should decide the matter independently as competent court of jurisdiction in the matter. No doubt Jirga, administration, Revenue Officials and law enforcements agencies made hectic efforts but when there are valid objections on final partition same are required to be decided in proper manner. AAC Rev, Kurram presented only one justification of Dood but same was violated in present partition when fair and just partition was not made. Such partition cannot be validated in the veil of Dood and Riwaj when it is against law and record.

Naeem Akhtar
Member Board of Revenue (A)
Khyber Pakhtunkhwa, Peshawar

Aggrieved of this order petitioners assailed it in appeal before the court of ADC Kurram and it was declined on 16.08.2023 with findings that partition of shamilat lands of Shalozan, Luqma Khel Shahra along Kara Khela was carried out through high level committee comprising of members of Anjuman e Hassinaia, parachinar including elders of all tribes. It was held that agreement

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was executed by tribes and partition among plareena is conducted in light of Dood and Riwaj. The ADC Kurram defended the partition but has ignored valid objections. He has not commented on enhancement of households, allotment in excess and pick and choose for members of the committee. These were relevant issues raised in appeal and same were totally ignored. It appears that ADC Kurram was not having any reply to these objections and it can be assumed very rightly that objections are valid and correct.

Still aggrieved petitioners filed revision before the court of Additional Commissioner Kohat and it was also turned down vide impugned order, dated 07.12.2023 with observations that partition was made by committee under supervision of LEAS. For law and order, LEAS have provided assistance and committee was not having discretionary powers to deviate from law, rules, record, Dood and Riwaj but it acted in arbitrary manner. The committee was a Commission deputed for the purpose of fair and just partition and it was not having the mandate to violate rights of owners and enhance households and make arbitrary allotments. The committee clearly went against law, record, dood and Riwaj as well principles of partition.

All these facts strongly confirms that objections of petitioners including enhancement of households from 387 to 934 for partition is not justified as according to 1958 census there are 387 households and this is confirmed from report of revenue officials. Then allotment of 20k valuable land each to every Jirga member is also not sustainable. It is also noted with concern that partition of 2900 jareeb lands below Kara Khela Road was not fairly made when it was allotted to respondents as compensation and jirga decided that petitioners can not be given share in it. Petitioners are co-owners in same land and they should have been allotted shares commensurate to ownership in same lands.

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

From administrative and legal point of view no doubt the area is passing through transition but with 25th amendment to the constitution powers of Jirgas were abolished and now courts have to exercise jurisdiction as per law and record. Riwaj and Dood may be useful but in present case even Dood and Riwaj were violated. The Revenue Courts should realize that they have now more vigilant and active role to play in such partition cases instead of rubber-stamping recommendations of Jirgas. The aim of 25th constitutional amendment is to empower people of ex FATA and courts to work for upholding law of the land. Sticking with old institution of jirga will defeat the spirit of 25th constitutional amendment and quest for supremacy of law, courts and human rights will become a mirage. In this transition phase the institutions should assume responsibility to materialize the dream of bringing ex FATA to

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mainstream instead of encouraging trend to allow jirgas to suppress common individual and continue to bargain on rights of public in immovable properties.

Foregoing in view this revision is accepted as based on merits. There are illegalities in the impugned orders of AAC Rev, Kurram, ADC Kurram and Additional Commissioner Kohat, dated 12.10.2022, 16.08.2022 and 07.12.2023 respectively and same are hereby set aside. The AAC Rev, Kurram is directed for Denovo partition as per section 135 of the Land Revenue Act, chapter 18 of the Land Record Manual, Wijibu Arz, Revenue Record, golden principles of partition and Dood and Riwaj to extent only not to violate rights of co-owners of suit land. AAC Rev, Kurram should constitute Commission as he deems appropriate. However, the court should ensure that allotment is strictly made commensurate to ownership. A justified remuneration for Commission be fixed.

Order Announced

Dated 03.11.2026

(NAEEM AKHTAR)
Member-V, Board of Revenue

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

Certified that this judgment consists of five 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

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