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

MISSAL KHAN ETC **PETITIONERS**

VERSUS

DILDAR KHAN ETC **RESPONDENTS**

Case No. 57-58/MBR-V/2026

Date of Institution; 14.01.2026

Date of Decision; 03.11.2026

REVISIONS AGAINST THE ORDER OF ADDITIONAL COMMISSIONER KOHAT DATED 01.10.2025

This consolidated single order shall dispose of above mentioned two connected revisions as common question of law and facts are involved. Petitioners have impugned the order of Additional Commissioner Kohat, dated 01.10.2025 vide which appeals of petitioners were dismissed and orders of ADC Kohat and AAC-III, Kohat were maintained whereby, objections of petitioners were rejected and mode of partition was adopted.

Facts of the case are that respondents filed application for partition u/s-135 of the Land Revenue Act before the court of AAC -III, Kohat in respect of suit land mentioned in partition application, situated in Mouza Kharmato. Petitioners were impleaded as necessary party later on. Ahle Commission prepared mode of partition twice and in former objections of petitioners were accepted but in later objections were rejected and mode of partition was adopted on 11.03.2025 excluding Khasra No. 1125 being disputed. Appeal of respondents was accepted and appeal of petitioners was declined by ADC Kohat vide single consolidated order, dated 08.07.2025 including Khasra No. 1125. Appeals of petitioners were also dismissed by Additional Commissioner Kohat vide impugned order, dated 01.10.2025 with consensus of parties to allow Ahle Commission to proceed. But petitioners despite consensus preferred these two connected revisions.

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

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

Learned counsel for petitioners contended that they were forced to file instant revisions because Additional Commissioner Kohat vide impugned order has not directed for separation of shares of petitioners. That petitioners were

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impleaded and transposed to panel of petitioners' u/s-138 of the Land Revenue Act. That shares of petitioners are required to be allotted as per Revenue Record and as per possession. That in present mode of partition shares of only respondents 1&2 were allotted and rest were kept joint. That mode of partition is incomplete in present form and not maintainable. That same was objected u/s-142 of the Land Revenue Act but objections were not judiciously decided by trial court.

On the contrary learned counsel for respondents averred that they have no objection upon fair and just partition as per Revenue Record. That same commitment was made before the court of Additional Commissioner Kohat but still petitioners preferred instant revisions unnecessarily. That petitioners want to linger on proceedings.

From the valuable arguments of learned counsels for parties and record it transpires that initially respondent No.1 filed application for partition before the court of AAC-III, Kohat and others including petitioners were transposed to panel of petitioners' u/s-138 of the Land Revenue Act. First mode of partition could not survive and upon objections it was rejected and Commission was appointed to prepare fresh report. He visited the spot in presence of respondents but record establishes the fact that petitioners were not present and they were not informed. The proposed mode of partition reflects that entire shares of petitioners were not allotted in naqsha jeem and most of suit land was kept joint. Only shares of respondents 1&2 were allotted.

Petitioners filed objections and AAC-III, Kohat after hearing to parties adopted mode of partition on 11.03.2025 excluding Khasra No. 1125 due to dispute. In view of this courts objections of petitioners were not decided judiciously and the partition order does not fulfill requirements of section 24-a of the General Clauses Act.

Aggrieved of this order both parties assailed it in separate appeals before the court of ADC Kohat. These were disposed vide consolidated order, dated 08.07.2025. Appeal of petitioners was dismissed and appeal of respondents was accepted and mode of partition included Khasra No. 1125 without mentioning the dispute referred by trial court in its order.

Naeem Akhtar
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Khyber Pakhtunkhwa, Peshawar

Petitioners further filed two separate appeals before the court of Additional Commissioner Kohat and vide impugned order, dated 01.10.2025 with consensus of parties it was directed to let the Ahle Commission visit the spot in presence of parties. Parties agreed for allotment as per revenue record and possession. In view of this court mere measurement will not cater for major illegality in the partition order when entire shares of petitioners were not

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allotted. Likewise, position of Khasra No. 1125 is required to be determined through speaking order to decide its inclusion or exclusion from partition. For this purpose, the present mode of partition cannot remain intact. When parties have agreed to allotment as per Revenue Record and possession on spot in their presence fresh partition proceedings are mandatory to come up with perfect and flawless mode of partition. The shares of petitioners cannot be kept in joint when they were transposed to panel of petitioners' u/s-138 of the Land Revenue Act. During partition it is duty of Ahle Commission to allot due recorded shares of all co sharers and pick and choose is not permitted. Such pick and choose is against the spirit of section 135 of the Land Revenue Act and golden principles of partition. Allotment of some shares to respondents 1&2 and letting other co sharers to remain in joint is not defendable. Perfect partition is inevitable to resolve issues between parties once for all. This is the real purpose of official partition and partial partition will leave parties in litigation.

Foregoing in view these two connected revisions are accepted as having merits. The impugned orders of AAC-III, Kohat, ADC Kohat and Additional Commissioner Kohat, dated 11.13.2025, 08.07.2025 and 01.10.2025 are suffering from illegality and these are hereby set aside. AAC-III, Kohat is directed for Denovo partition. The Ahle Commission to allot entire recorded shares of parties in proposed mode of partition like respondents 1&2. The fate of Khasra No. 1125 be decided in light of record of civil litigation to include or exclude it from partition. The proceedings be conducted on spot in presence of parties and existing due possession be maintained as principle of partition. AAC-III, Kohat can then decide partition after providing opportunity of hearing to parties.

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 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

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