

and 155(1), Cr.P.C. separately prescribe the procedure for dealing with them. If there is a piece of information relating to the commission of a cognizable offence, it falls under section 154 of the Code of Criminal Procedure and a police officer is under a statutory obligation to enter it in the prescribed register. The condition precedent is simply two-fold: first, it must be information, and second, it must relate to a cognizable offence on the face of it and not merely in the light of subsequent events. A police officer is bound to receive a complaint when it is preferred to him, or where the commission of an offence is reported to him orally, he is bound to take down the complaint. If he does not incorporate the complaint so made in the register, he fails to perform a statutory duty as a public servant; therefore, renders himself to be dealt with by his superior officers for neglect of duty. Thus, it does not depend on the sweet will of a police officer who may or may not record it.

The Supreme Court in the cases of Muhammad Bashir v. Station House Officer, Okara Cantt. and others (PLD 2007 SC 539) and Younas Abbas and others v. Additional Sessions Judge Chakwal and others (PLD 2016 SC 581) while dealing with powers of Ex-officio Justice of Peace under Section 22-A of the Cr.P.C. has held that until and unless due recourse is exercised within the police hierarchy for initiation of proceedings under Section 154, Cr.P.C. petition under sections 22-A, 22-B; Cr.P.C. is not maintainable. Hence, because of guidelines given by the Supreme Court in the Judgment supra, the court must function as Ex-officio Justice of Peace, before taking cognizance in the matter of an application under Sections 22-A, 22-B,

Cr.P.C., to satisfy that the party has already approached the concerned quarter(s) meant for redressal of his grievance i.e. file application before SHO for registration of the case, which was registered under a proper diary and the inaction by the SHO was further agitated before the higher police hierarchy (Superintendent of Police) under due receipt but with no effect.

Both the parties have agreed to the disposal of the instant petition on the ground that the complainant will appear before the concerned SHO and will record his statement including the version of the respondent's side on the plea that a private complaint has already been registered under similar cause of action, which has now been dismissed. Let SHO record the statement of the complainant including the version of the respondent, and if he finds a case to be registered he may do in accordance with law.

The instant petition is disposed of in the above terms.

MQ/A-47/Sindh Petition disposed of.

2024 Y L R 926

[Lahore]

Before Ch. Muhammad Iqbal, J

Syed TAZEEB ABBAS  
and others---Petitioners

versus

BASHIR AHMED  
and others---Respondents

Civil Revision No. 1015 of 2015, heard on 9th January, 2023.

**(a) Qanun-e-Shahadat (10 of 1984)---**

---Art. 79---Specific Relief Act (I of 1877), S. 42---Suit for declaration---Registered document---Proof---Plaintiff claimed that registered exchange deed, and subsequent mutation were illegal to the extent of certain part/share of the Khasra (Khasra-in-question)---Suit was dismissed by the Trial Court which judgment was maintained by the Appellate Court---Validity---Registered exchange deed, in the present case, was an admitted document; in consequence of which a mutation in the year 1981 was incorporated in the revenue record---Admitted facts need not to be proved---Even otherwise, the petitioners/plaintiff failed to bring on record any solid, concrete and trustworthy oral as well as documentary evidence in support of their assertions made in the plaint regarding concerned Khasra---As such the Courts below rightly passed the impugned judgments and decrees and no illegality had been committed---Revision was dismissed, in circumstances. [pp. 928, 929] A, C & E

Mst. Rehmat and others v. Mst. Zubaida Begum and others 2021 SCMR 1534 ref.

**(b) Limitation Act (IX of 1908)---**

---Art. 120---Specific Relief Act (I of 1877), S. 42---Suit for declaration---Limitation---Registered exchange deed was executed in the year 1981 whereas the petitioners filed suit for declaration in the year 2009 after lapse of 28 years and 24 days---Under Art. 120 of the Limitation Act, 1908, the maximum period for filing the suit for declaration

was six years as such the suit of the petitioners was barred by time and no convincing reason had been furnished for delayed filing of the suit---Suitors were under legal obligation to explain the delay of each and every day but no such convincing reasons of delay had been furnished to surmount the barrier of limitation in said regard, thus the non-furnishing of the explanation of delay disentitled the suitors for condonation of the delay---Revision was dismissed, in circumstances. [pp. 928, 929] B & E

Agha Syed Mustaque Ali Shah v. Mst. Bibi Gul Jan and others 2016 SCMR 910 ref.

**(c) Civil Procedure Code (V of 1908)---**

---S. 115---Specific Relief Act (I of 1877), S. 42---Suit for declaration---Concurrent findings---Revisional jurisdiction of the High Court---Scope---Suit filed by the petitioners was dismissed by the Trial Court which judgment and decree was maintained by the Appellate Court---Validity---Concurrent findings of fact against the petitioners/plaintiffs did not call for any interference by the High Court in exercise of its revisional jurisdiction---Revision filed by the plaintiffs was dismissed, in circumstances. [p. 929] D & E

Mst. Zaitoon Begum v. Nazar Hussain and another 2014 SCMR 1469 ref.

Masood Sadiq for Petitioners.

Usman Nassir Awan for Respondents Nos. 10 to 12.

Date of hearing: 9th January, 2023.

### JUDGMENT

CH. MUHAMMAD IQBAL, J.---

Through this civil revision, the petitioners have challenged the vires of judgment and decree dated 17.07.2013 passed by the learned Civil Judge, Phalia who dismissed the suit for declaration filed by the petitioners and judgment and decree dated 07.02.2015 passed by the learned Addl. District Judge, Phalia District M.B. Din who dismissed the appeal of the petitioners.

2. Brief facts of the case are that the petitioners/plaintiffs instituted a suit for declaration against the respondents/defendants in respect of land measuring 02-Kanals 12-Marlas comprising Khewat No.157 Khatooni No.482, Square No.77, Killa No.1/1 as per Jamabandi for the years 1972-73 situated in Mouza Pindi Magho, Tehsil Phalia, District Mandi Bahauddin, contending therein that they are legal heirs of Gull Hussain Shah who was owner of the suit property which was inherited by the petitioners along with their mother Safia Begum who has died leaving behind the plaintiffs as her legal heirs. A registered exchange deed No.966 dated 12.04.1981 was executed by Mst. Safia Begum and petitioner/plaintiff No.1 Tazeeb Abbas in favour of Fateh Muhammad predecessor-in-interest of respondents /defendants Nos.1 and 2. As per registered deed land measuring 06-Kanals 06-Marlas comprising Square No.77 Killa No.1/1 and Square No.12 Killa No.1/1 was given to Fateh Muhammad whereas registered deed was later on got executed in the form of mutation. No. 1371 dated 23.08.1981. That in exchange deed Khasra No.12/1/1 was written and they did not transfer 19/40 share of Khasra No.77/1/1, to that

extent registered exchange deed and subsequent mutation are illegal. Respondents/defendants appeared and filed contesting written statement. As per divergent contentions of the respective parties, the learned trial court framed issues, recorded pro and contra evidence and vide judgment and decree dated 17.07.2013- dismissed the suit for declaration filed by the petitioners. Petitioners, feeling dissatisfied, assailed the said judgment and decree through an appeal and the learned appellate court vide judgment and decree dated 07.02.2015 dismissed the said appeal. Hence, this civil revision.

3. I have heard the learned counsels for the parties at full length and gone through the record with their able assistance.

4. A registered exchange deed No.966 dated 12.04.1981 is an admitted document and in consequence of the said registered exchange deed, A mutation No. 1371 dated 23.08.1981 was incorporated in the revenue record. It is settled law that admitted facts need not to be proved. Reliance is placed on the case titled as Mst. Rehmat and others v. Mst. Zubaida Begum and others (2021 SCMR 1534). Respondents stated that possession was handed over by both parties of their exchange land and since that day they are in possession. Admittedly, registered exchange deed No.966 was executed on 12.04.1981 whereas the petitioners filed suit for declaration on 06.05.2009 after lapse of B 28 years and 24-days whereas under Article 120 of the Limitation Act, 1908, the maximum period for filing the suit for declaration is six years, as such the suit of the petitioners was barred by time and no

convincing reason has been furnished for delayed filing of the suit. The suitors were under legal obligation to explain the delay of each and every day but no such convincing reasons of delay have been furnished to surmount the barrier of limitation in this regard, thus the non-furnishing of the explanation of delay disintitiled the suitors for condonation of the delay. Reliance is placed on the case titled Agha Syed Mustaque All Shah v. Mst. Bibi Gul Jan and others (2016 SCMR 910), the relevant portion is as under;

"17. The suit was also rightly found to be patently barred by limitation. The declaration sought was with regard to a purported gift, allegedly made on 10.04.1971. The suit, in terms of Article 120 of the Limitation Act, under which Article a suit for a declaration of the nature sought, falls, ought to have been filed within six years of the said gift deed, but was filed on 24.08.2010, after a lapse of more than, thirty eight years. Whereas the mutation sought to be cancelled has been effected on 11.04,1990, twenty years prior to the filing of the suit, although limitation for such relief also was/is six years from the date of the cause of action."

Furthermore, the petitioners/ plaintiffs failed to bring on record any solid, concrete and trustworthy oral as well as documentary evidence in support of their assertions made in the plaint regarding Khasra No.77/1/1. As such the learned courts below rightly passed the impugned judgments and

decrees and no illegality has been committed.

5. Learned counsel for the petitioners has not pointed out any illegality or material irregularity, misreading and non-reading of evidence in the impugned judgments and decrees passed by the learned Courts below and has also not identified any jurisdictional defect. The concurrent findings of fact are against the petitioners which do not call for any interference by this Court in exercise of its revisional jurisdiction. Reliance is placed on the case cited as Mst. Zaitoon Begum v. Nazar Hussain and another (2014 SCMR 1469).

6. Forgoing of the view, this civil revisioner missed being devoid of any

Revision dismissed.

2024 Y L R 929

[Islamabad]

Before Aamer Farooq, CJ

PAKISTAN TELECOMMUNICATION  
AUTHORITY through  
Chairman---Petitioner

versus

PAKISTAN INFORMATION  
COMMISSION  
and another---Respondents

Writ Petition No. 3720 of 2022, decided on 5th January, 2024.

**Right of Access to Information Act (XXXIV of 2017)---**

----Ss. 7 & 11---Constitution of Pakistan, Arts. 9, 10, 10A, 12, 13, 14, 15, 16, 17,