

IN THE HIGH COURT OF SINDH, KARACHI  
C.P. No.D-6082 of 2024  
[Abdul Razzaq Balouch v. Dad Rahim and others]

Present:  
Mr. Justice Muhammad Iqbal Kalhoro  
Mr. Justice Muhammad Osman Ali Hadi

For orders as to maintainability of petition

28.04.2025.

Mr. Muhammad Nazir Tanoli, advocate for petitioner.  
Ms. Saima Imdad Mangi, Assistant Advocate General.  
None present for private respondents.

O R D E R  
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**MUHAMMAD IQBAL KALHORO J:** By means of this petition, petitioner has questioned an order passed by Tribunal Anti-Encroachment, Karachi dated 25.09.2024 in Suit No.16 of 2024, filed by respondents, declaring them as legal occupants of plots situated in Haji Khair Muhammad Goth, Karachi.

2. The case of petitioner is that he had filed an application under Order 1 Rule 10 CPC during pendency of the aforesaid suit, which was allowed and he was impleaded as party. Thereafter, he filed a written statement challenging the status of the respondents as occupants of the plots in the said Goth. Neither petitioner was given an opportunity to argue the case, nor at the time of decreeing the suit vide impugned order, the written statement and documents filed by petitioner were considered by Tribunal. Only on a statement submitted by Deputy Commissioner concerned, the suit was decreed without hearing the other parties.

3. Learned AAG has also not supported the impugned order stating that Tribunal has no jurisdiction to declare respondents as owners of the plots.

4. We have heard and considered submissions of the parties. Record shows that petitioner's application under Order 1 Rule 10 CPC was allowed by the Tribunal and consequently written statement was filed. But the impugned order reflects that neither written statement was considered, nor at the time of hearing of the case the petitioner was given an opportunity to present his case. Essentially, the claim of petitioner is that a false and fabricated list by office of Deputy Commissioner in collusion with Mukhtiarkar concerned was filed showing respondents as occupants of the plots situated in the said Goth. According to him, the respondents are not the residents of the said Goth and under the garb of aforesaid suit are trying to occupy the government land.

5. The order reflects that simply on the basis of the list submitted by office of Deputy Commissioner, whose authenticity was not even got verified by referring to the actual record, the Tribunal decreed the suit without hearing any of the respondents or considering the claim of the petitioner which being factual one needed evidence to be decided. Besides, the question over the jurisdiction of the Tribunal to grant any kind of declaration was also not attended by the Tribunal.

6. We, in the circumstances, set aside the impugned order, remand the case to Tribunal to hear all the parties and if necessary record the evidence, verify authenticity of the list submitted by official respondents by examining the relevant record and proceed to decide the matter on merits. However, at the same time, the Tribunal shall also attend to the question of its jurisdiction that whether it can grant a kind declaration to the respondents/plaintiffs as sought by them or not.

The petition is accordingly disposed of in above terms.

JUDGE

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JUDGE

