

ORDER SHEET
IN THE HIGH COURT OF SINDH CIRCUIT COURT MIRPURKHAS
Constitutional Petition No.D-220 of 2025

DATE	ORDER WITH SIGNATURE OF JUDGE
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- 1. For order on office objection.
- 2. For order on M.A No.803/2025.
- 3. For order on M.A No.804/2025.
- 4. For hearing of main case.

14.04.2025

Mr. Muhammad Saleem Kumbhar, advocate for petitioners.
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Dr. Syed Fiaz ul Hasan Shah, J: The petitioner has impugned Order dated 18-10-2022 passed by the Presiding Officer, Anti Encroachment Tribunal, Mirpur Khas in Suit No.77/2021 (Mst. Nasreen Akhtar & others vs. Haji & Others). On 18-03-2025, the present petitioner was presented to the Office of this Court after considerable delay of 29 months. The petitioner is badly suffers with laches. In ***“STATE BANK OF PAKISTAN through Governor and another Versus IMTIAZ ALI KHAN and others” (2012 SCMR 280)*** it has held as under:

“laches is a doctrine whereunder a party which may have a right, which was otherwise enforceable, loses such right to the extent of its enforcement if it is found by the Court of a law that its case is hit by the doctrine of laches/limitation. Right remains with the party but it cannot enforce it. The limitation is examined by the Limitation Act or by special laws which have inbuilt provisions for seeking relief against any grievance within the time specified under the law and if party aggrieved do not approach the appropriate forum within the stipulated period/time, the grievance though remains but it cannot be redressed because if on one hand there

was a right with a party which he could have enforced against the other but because of principle of limitation/laches, same right then vests/accrues in favour of the opposite party”.

It was further held by Supreme Court of Pakistan in ***“MEMBER (S&R)/CHIEF SETTLEMENT COMMISSIONER, BOARD OF REVENUE, PUNJAB, LAHORE and another Versus Syed ASHFAQUE ALI and others” (PLD 2003 Supreme Court 132)*** as under:

“On account of Laches in setting the machinery of law into motion they have indeed disentitled themselves to the exercise of discretionary and equitable jurisdiction, which in all cases must be exercised in order to foster the ends of justice and to right a wrong. Writ jurisdiction is undoubtedly discretionary and extraordinary in nature which may not be invoked by a party who demonstrates a style of slackness and laxity on his part. Furthermore, if a party does not choose legal remedy available under the Statute strictly speaking Constitutional jurisdiction of the High Court cannot be exercised in his favour. Law is well-settled that a party guilty of gross negligence and laches is not entitled to the equitable relief. One who seeks equity must show that equities lean in his favour. In the facts and circumstances of the appeal we are, therefore, in no manner of doubt that the High Court was not competent to exercise its writ jurisdiction conferred under Article 199 of the Constitution”.

The exercise of constitutional jurisdiction in terms of Article 199 of the “Constitution” is discretionary which can only be invoked in extraordinary and exceptional circumstances. The Petitioners have badly failed to point out any illegality or material irregularity in the impugned order, warranting interference by this Court in exercise

of constitutional jurisdiction. Therefore, the petition is dismissed in limini.

JUDGE

JUDGE

****Adnan Ashraf Nizamani****