

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,  
HYDERABAD**

***PRESENT:***

***Mr. Justice Arshad Hussin Khan.***

***Mr. Justice Dr. Syed Fiaz ul Hassan Shah.***

**1<sup>st</sup> Appeal No.02 of 2013**

[WAPDA through Project Director, LBOD south Vs. Deputy District Officer  
(Revenue) & others]

**1<sup>st</sup> Appeal No.03 of 2013**

[WAPDA through Project Director, LBOD south Vs. Deputy District Officer  
(Revenue) & others]

**1<sup>st</sup> Appeal No.04 of 2013**

[WAPDA through Project Director, LBOD south Vs. Deputy District Officer  
(Revenue) & others]

**1<sup>st</sup> Appeal No.05 of 2013**

[WAPDA through Project Director, LBOD south Vs. Deputy District Officer  
(Revenue) & others]

**1<sup>st</sup> Appeal No.06 of 2013**

[WAPDA through Project Director, LBOD south Vs. Deputy District Officer  
(Revenue) & others]

**1<sup>st</sup> Appeal No.07 of 2013**

[WAPDA through Project Director, LBOD south Vs. Deputy District Officer  
(Revenue) & others]

**1<sup>st</sup> Appeal No.08 of 2013**

[WAPDA through Project Director, LBOD south Vs. Deputy District Officer  
(Revenue) & others]

**1<sup>st</sup> Appeal No.09 of 2013**

[WAPDA through Project Director, LBOD south Vs. Deputy District Officer  
(Revenue) & others]

**1<sup>st</sup> Appeal No.10 of 2013**

[WAPDA through Project Director, LBOD south Vs. Deputy District Officer  
(Revenue) & others]

**1<sup>st</sup> Appeal No.11 of 2013**

[WAPDA through Project Director, LBOD south Vs. Deputy District Officer  
(Revenue) & others]

**1<sup>st</sup> Appeal No.12 of 2013**

[WAPDA through Project Director, LBOD south Vs. Deputy District Officer (Revenue) & others]

**1<sup>st</sup> Appeal No.13 of 2013**

[WAPDA through Project Director, LBOD south Vs. Deputy District Officer (Revenue) & others]

**1<sup>st</sup> Appeal No.14 of 2013**

[WAPDA through Project Director, LBOD south Vs. Deputy District Officer (Revenue) & others]

**1<sup>st</sup> Appeal No.15 of 2013**

[WAPDA through Project Director, LBOD south Vs. Deputy District Officer (Revenue) & others]

**Appellants** : Through Mr. Muhammad Idrees Naqshbandi, Advocate.

**Respondent No.1** : Through Mr. Muhammad Ismail Bhutto, Additional Advocate General, Sindh.

**Private Respondents** : **NEMO.**

Date of hearing : **14.05.2025**  
Date of decision : **14.05.2025.**

## **ORDER**

**Dr. Syed Fiaz ul Hassan Shah, J:** Since common question of law and facts are involved in the above listed appeals, therefore, these appeals are decided through this common Order. The appellants have impugned the Judgment dated 7<sup>th</sup> December 2012 passed by the 2<sup>nd</sup> Additional District Judge, Sanghar in Land Acquisition Reference Nos.2, 5, 6, 9, 11, 12, 15, 14, 3, 13, 10, & 4 of 2008, 01 & 02 of 2009.

2. The impugned judgment dated 07.12.2012 is reproduced hereunder:

*“11). For what has been discussed above, I am of the view that applicant has failed to establish his version while*

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*not adducing the evidence as discussed in issues No:1 to 4. Consequently, land reference is dismissed under order 17 Rule 3 C.P.C. However, there shall be no order as to costs. Let such decree be prepared.”*

3. The appellants' counsel contends that the Land Reference under Section 18 of the Land Acquisition Act, 1894 was filed before the 2<sup>nd</sup> Additional District Judge, Sanghar challenging the Award Nos.29, 28, 32, 30 & 31 dated 06.06.2007, 37, 35, 40, 34, 36, 33, 38, 39 & 41 dated 04.10.2007 passed by the Land Acquisition Officer mainly on the ground that Land Acquisition Officer, Sinjhor has improperly examined the claims of the Khatedars and impartially fixed Land Price. He further contends that the provision of Order XVII Rule 3 C.P.C is not applicable in the present *lis* despite that THE learned 2<sup>nd</sup> Additional District Judge Sanghar has passed the impugned judgment.

4. We have confronted to the learned counsel for the appellants towards statute and provision of section 53 of the Land Acquisition Act, 1894, to which, learned counsel requests that he would not press the captioned appeals provided at least one opportunity may be provided to him to adduce evidence before the Trial Court. The counsel has categorically undertaken to proceed with the case and to record evidence within a period of 30 days.

5. In view of the above statement and relying the rules of Apex Court that matters ought to be decided on merits rather than on technicalities and while placing reliance on the dictum laid down by the Hon'ble Supreme Court in the case of **SAID MUHAMMAD and others**

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***Vs. M. SARDAR and others [PLD 1989 Supreme Court 532]***

wherein it is held:

***“This will be in consonance with the principle that the Court will ordinarily exercise power because technicalities notwithstanding laws or procedure are meant for the advancement of justice and not for denying it.”***

6. A similar view has also been followed in the case of ***Mst. SARDAR BEGUM Vs. MUHAMMAD ANWAR SHAH and others [PLD 1993 SCMR 363]*** wherein the Apex Court held:

***“A party should not be denied a relief on account of technicalities in the-procedural law, as the same are framed for the purposes of regulating the legal proceedings, they are intended and designed to foster the cause of justice rather than to defeat it.”***

7. In the case of ***“Imtiaz Ahmed v. Ghulam Ali”, (PLD 1963 SC 382)***, the Hon’ble Supreme Court has been pleased to hold that:

***“the proper place of procedure in any system of administration of justice is to help and not to thwart the grant to the people of their rights. All technicalities have to be avoided unless it is essential to comply with them on grounds of public policy.”***

8. Similar views has been formed in the case of ***"Anwar Khan v. Fazal Manan", (2010 SCMR 973)***, and the Hon’ble Supreme Court held that:

***“It is well settled principle that the most important duty of the Courts of law is to do justice between the parties and in the absence of any express power, normally on technical grounds they should not hesitate to give proper relief.***

9. We have also noticed that the impugned judgment does not given reasons that motivated the Trial Court to invoke the provision of Order XVII Rule 3 C.P.C which is also against the norms of judicial principles. Consequently, the instant appeals are allowed and the judgment dated 07.12.2012 is set-aside with direction to the learned Trial Court to record the evidence within a period of 60 days hereof. It may be observed that in case the appellants fail to give evidence, the Trial Court would be at liberty to pass appropriate orders including imposing costs.

**JUDGE**

**JUDGE**

Muhammad Danish -