

HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD

C.P. No.D- 1862 of 2024

[Moula Bux and another v. Province of Sindh and others]

BEFORE:

**JUSTICE ADNAN-UL-KARIM MEMON
JUSTICE RIAZAT ALI SAHAR**

Mr. K.B Leghari, Advocate for Petitioners
Mr. Rafiq Ahmed Dahri, Asstt: A.G.

Date of hearing & decision: 04.12.2025

ORDER

ADNAN-UL-KARIM MEMON J.- The petitioners, through this Constitutional Petition, have prayed to:-

- a) Restrain the official Respondents from entering/dispossessing the petitioners without due course of law.
- b) Grant interim relief to the petitioners, restraining the official Respondents from getting any kind of construction, demarcation, or creating any hindrances for watering the standing wheat crops of the petitioners, by misusing their powers.
- c) Declare the act of the respondents as illegal, void, and ab initio.
- d) Direct the respondents to clear their position in what position they are claiming the allotment of the survey No.577 situated in Deh Wasan Tapo Khyber, Taluka & District Matiari, and also direct them to produce the record.
- e) Direct the respondent Nos. 3 and 4 to provide legal protection to the petitioners and the family members.

2. The case of the petitioners is that they are the legal heirs of deceased Dad Muhammad @ Allah Dad, who passed away in the year 2009, leaving behind (1) Moula Bux, (2) Mst. Rani, and (3) Mst. Zainab as his surviving heirs. The deceased Dad Muhammad was the lawful owner of agricultural land bearing Survey No. 577, admeasuring 4-19 acres, situated in Taluka and District Matiari, which he had purchased through registered Sale Deed dated 09.08.1963 executed in his favour by the original owner, Syed Mohsin Ali Shah. Since its purchase in 1963, the said property remained in cultivating possession of Dad Muhammad, and after his death, it continued to be in the peaceful possession of his legal heirs, including the petitioners. The petitioners submitted that on 03.12.2024, SSP Matiari, through SHO Police Station Khebrani, summoned them and informed that the suit land had allegedly been allotted to the police department for construction of a police line. This information came as a shock to the petitioners,

who are the lawful owners of the land. Thereafter, on 05.12.2024, when the son of the petitioners, Ghulam Farooq along with his hari (Peasant), was present at the land, officials from Khebrani Police Station arrived at the site, threatened him, and restrained from continuing cultivation over suit land. Consequently, the petitioners were compelled to file the present petition.

3. Learned counsel for the petitioners argued that respondents 5, 11, 12 and 13, without possessing any ownership documents, are misusing their official positions by falsely claiming that the suit land has been allotted to them; that the property is lawfully owned by the petitioners through duly registered Sale Deed, and no authority exists to allot or transfer the petitioners' land to the respondents. The actions of respondents in preventing the petitioners from cultivating their own land and asserting a false claim of allotment are illegal, arbitrary and without lawful authority; that the petitioners' ownership is supported by registered document executed more than fifty years ago, which carries presumption of truth and genuineness under the law and stands duly reflected in the record of rights. He, therefore, prayed that the petition be allowed.

4. Upon issuance of notice, learned AAG appeared and submitted that the SSP Matiari (respondent No. 5) had filed a statement asserting that the disputed land is situated at Wassan Bungalow, which previously fell within District Hyderabad and was being utilized as Police Lines Matiari in the year 1992. He stated that police personnel were residing in the said premises and used to proceed from there to Katcha areas for conducting anti-dacoit operations against hardened criminals. After the creation of new District Matiari in 2005, a Reserve Inspector, along with other staff, was also deputed at the said location. Learned AAG further submitted that Deputy Commissioner Matiari, through a letter dated 03.10.2023, addressed to Secretary, Land Utilization Department, Government of Sindh, informed that State land measuring 10 to 20 acres was available in Deh Wassan, Tappa Khyber, for the purpose of constructing Police Lines/Headquarters buildings in District Matiari. He added that Deputy Commissioner forwarded the report of the Mukhtiarkar Matiari, along with relevant enclosures, before the Land Allotment and Reservation Committee headed by the Chief Secretary for reservation of the said land for public welfare/security project free of cost. It was further stated that on 15.11.2023, the then IGP Sindh performed a ground-breaking ceremony for the Police Lines Headquarters, which was also attended by the then Deputy Commissioner Matiari. Thereafter, a letter was addressed to the Deputy Commissioner Matiari requesting measurement and demarcation of the subject land for commencement of boundary wall construction. This exercise was carried out by the Revenue staff on 15.11.2024. Learned AAG submitted that on 03.12.2024, Petitioner No. 1 visited the office of respondent No.5 and claimed that the land in question was his ancestral property. He was advised to approach

the Revenue Department for clarification of the title. It was also pointed out that Petitioner No.2, Ghulam Farooq, had filed two separate Criminal Miscellaneous Applications Nos. 1172 & 1204 of 2024 under Sections 22-A & 22-B Cr.P.C before the learned District & Sessions Judge, Matiari, which were dismissed vide order dated 11.01.2025 on the ground that the dispute was purely civil in nature and the applicant was attempting to give it a criminal colour, amounting to abuse of process of law. Referring to the report of Mukhtiarkar Taluka Matiari, he submitted that the site inspection conducted by the Tapedar and Survey Team revealed that the land about Survey No. 575 Wassan Bungalow is in the possession of Police Department, whereas Survey No. 577 (Khooro) is also recorded as government land. He concluded by stating that the allegations leveled by the petitioners are baseless, fabricated, and unsupported by any evidence; therefore, the petition merits dismissal.

5. Having examined the submissions of the parties, it appears that the dispute primarily concerns the ownership and possession of subject land, which requires careful determination in accordance with law. The petitioners have produced a registered Sale Deed of 1963 claiming ownership, whereas the respondents assert that the land is government property allotted for public purposes. Given the factual and legal complexities involved, this matter cannot be resolved merely based on averments and counter-statements before this Court. It is, therefore, directed that the matter shall first be referred to Deputy Commissioner, Matiari, who shall conduct an impartial inquiry into the ownership and possession of the disputed property. The Deputy Commissioner shall ensure that both parties are provided a full opportunity of hearing, including production of all relevant title documents, the Revenue record, and evidence about possession. In particular, where any torn, missing, or altered page from the main register under the Revenue hierarchy is identified, the Deputy Commissioner shall ensure that the same is either properly recorded, rewritten, or appropriate proceedings are initiated in accordance with the directives of Supreme Court regarding the correction of Revenue record. After completing the inquiry, the Deputy Commissioner shall place detailed findings before the Senior Member, Board of Revenue (BOR), Government of Sindh, for further consideration and final determination. A speaking order on the part of Senior Member BOR shall be passed based on the inquiry, and the parties shall have the right to be heard before passing of any final decision. Meanwhile, the possession of the subject property shall be secured by the Deputy Commissioner, and neither party shall disturb the lawful possession of the other until the completion of inquiry and final decision by the BOR and the Land Utilization Department, Government of Sindh.

6. The entire exercise, including inquiry, verification of records, and submission of findings to the BOR, shall be undertaken within a period of three (03) months from the date of receipt of this order.

7. This Constitutional Petition stands disposed of in the above terms.

JUDGE

JUDGE

Karar_Hussain/PS*