

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

*Constitutional Petition No. D-1269 of 2012.
Athar Abbas versus Province of Sindh and others)*

Date of hearing	Order with signature(s) of Judge(s)
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*Before:-
Mr. Justice Riazat Ali Sahar,
Mr. Justice Ali Haider 'Ada'.*

Date of Hearing : 17.06.2026.

Date of Decision : 24.06.2026.

Mr. Athar Abbas Solangi, Petitioner in person.

Mr. Mohsin Ali Khan, Assistant Advocate General along with Allah Bux Soomro, Director School, (Elementary, Secondary & Higher Secondary) Education Larkana Region and Sajjad Hussain, Focal Person, District Education Officer (Elementary, Secondary & Higher Secondary) Larkana.

Ali Haider 'Ada' J:- The instant petition pertains to the grievance of the petitioner that he purchased the property in question, measuring 10,465 square feet, comprising Survey Nos. 54 to 60, situated at Badeh Town, Dokri, Larkana, through a registered Sale Deed dated 04.04.2005. The said transaction was entered into the revenue record through Mutation Entry dated 07.02.2006. It is further asserted that the said transaction was in continuation of an earlier agreement of sale.

2. It is further averred in the instant petition that the Education Department, Larkana, acquired an area measuring 4,820 square feet out of the said property and constructed a Girls Middle School thereon. According to the petitioner, no notice was issued to him and no procedure prescribed under the Land Acquisition Act was adopted by the department before utilizing the said land. Therefore, the petitioner sought compensation for the land allegedly acquired and utilized by the Education Department in accordance with the provisions of the Land Acquisition Act.

3. Notices were issued to the concerned respondents, whereupon the Director School Education (Primary), Larkana Region, and the District Education Officer (Primary), Larkana, jointly submitted their parawise comments as respondents No.2 and 3. They took the stance that the school was constructed under the ADP Scheme for the year 2001-2002 and the construction work had commenced on 11.06.2003, which was much prior to the alleged purchase of the property by the petitioner. It was further stated that the previous owner had never raised any objection nor claimed any right for compensation in respect of the said land.

4. The Assistant Commissioner, Dokri, respondent No.5, submitted his comments and disclosed that the land utilized for the construction of the school was not acquired through the procedure prescribed under the Land Acquisition Act.

5. The Mukhtiarkar (Revenue), Taluka Dokri, respondent No.6, in his comments admitted the ownership of the petitioner over the property in question.

6. The petitioner, who is also an Advocate, argued that the land could only have been utilized after adopting the lawful procedure for acquisition, which had admittedly not been followed by the government functionaries. He contended that the authorities were under an obligation to act strictly within the ambit of law, particularly in view of the Constitutional protection available to property rights. During the course of arguments, the petitioner proposed that he is willing to forgo all his claims, provided that the Girls Middle School is renamed in the name of his mother, and subject to acceptance of such proposal, he would withdraw his claim.

7. On the other hand, the learned Assistant Advocate General relied upon the comments submitted by the respondents and further contended that if such proposal of the petitioner is permissible

under the law, the same may be considered in order to resolve the dispute. The officials present before the Court also submitted that the matter, regarding acceptance of the proposal, is within the domain of the Secretary, Education Department. However, so far as the claim of compensation raised by the petitioner was concerned, the respondents denied the same, asserting that the petitioner was not entitled thereto.

8. Heard and perused the record.

9. It is an admitted position throughout the proceedings that no one has raised any dispute regarding the ownership of the petitioner over the property in question. Therefore, at this stage, prima facie, the claim of the petitioner with regard to his ownership and right in the said property remains free from any cloud of factual controversy or dispute regarding title.

10. Secondly, it is necessary to examine the legal position regarding acquisition of land by the Government. Where the Government requires any private property for a public purpose, it is incumbent upon the concerned authorities to first examine and determine the rights of the property owner strictly in accordance with the law. For ready reference, **Article 24 of the Constitution of the Islamic Republic of Pakistan, 1973**, is reproduced hereunder:-

24. (1) No person shall be deprived of his property save in accordance with law.

(2) No property shall be compulsorily acquired or taken possession of save for a public purpose, and save by the authority of law which provides for compensation therefor and either fixes the amount of compensation or specifies the principles on and the manner in which compensation is to be determined and given.

(3) Nothing in this Article shall affect the validity of—

(a) any law permitting the compulsory acquisition or taking possession of any property for preventing danger to life, property or public health; or

(b) any law permitting the taking over of any property which has been acquired by, or come into the possession of, any person by any unfair means, or in any manner, contrary to law; or

(c) any law relating to the acquisition, administration or disposal of any property which is or is deemed to be enemy property or evacuee property under any law (not being property which has ceased to be evacuee property under any law); or

(d) any law providing for the taking over of the management of any property by the State for a limited period, either in the public interest or in order to secure the proper management of the property, or for the benefit of its owner; or

(e) any law providing for the acquisition of any class of property for the purpose of—

(i) providing education and medical aid to all or any specified class of citizens; or

(ii) providing housing and public facilities and services such as roads, water supply, sewerage, gas and electric power to all or any specified class of citizens; or

(iii) providing maintenance to those who, on account of unemployment, sickness, infirmity or old age, are unable to maintain themselves; or

(f) any existing law or any law made in pursuance of Article 253.

(4) The adequacy or otherwise of any compensation provided for by any such law as is referred to in this Article, or determined in pursuance thereof, shall not be called in question in any court.

11. Keeping in view the Constitutional protection afforded to property rights, no person can be deprived of his property except in accordance with law. Likewise, no property can be compulsorily acquired or taken possession of by the State except for a public purpose and under the authority of law, which provides for payment of compensation. Such law must either determine the amount of compensation or prescribe the principles and manner according to which the compensation is to be assessed and paid.

12. The **Land Acquisition Act, 1894**, provides a complete mechanism and procedure for acquisition of land required for public purposes. The *preamble* of the said enactment itself reflects the

legislative intent, which states that the law was enacted for the acquisition of land needed for public purposes and for Companies, and for determining the amount of compensation payable on account of such acquisition. For ready reference, the preamble is reproduced hereunder:-

WHEREAS it is expedient to amend the law for the acquisition of land needed for public purposes and for Companies and for determining the amount of compensation to be made on account of such acquisition;

13. Now, it is quite clear that it is the solemn duty of the Government functionaries that whenever land is required for any public purpose, they cannot exercise their powers in excess of the authority conferred upon them by law. Rather, they are bound to strictly adhere to the procedure prescribed under the relevant law. The obligation upon the government functionaries remains the same irrespective of whether any objection was raised by the owner of the property or not, as the requirement of following due process of law cannot be dispensed with on the basis of absence of objection from any quarter. The contention that no objection was raised previously by any person is, therefore, misconceived and reflects an assumption of authority beyond the scope of their lawful functions. Such circumstance does not confer any license upon the government functionaries to act according to their own choice or discretion, contrary to the mandatory requirements of law.

14. The principle of lawful exercise of powers is further strengthened by **Article 24-A of the General Clauses Act**, which provides the manner in which public authorities are required to exercise their powers. For ready reference, the same is reproduced hereunder:-

[24A. Exercise of power under enactments. – (1) Where, by or under any enactment, a power to make any order or give any direction is conferred on any authority, office or person such power shall be exercised reasonably, fairly, justly and for the advancement of the purposes of the enactment.

(2) The authority, office or person making any order or issuing any direction under the powers conferred by or under any enactment shall, so far as necessary or appropriate, give reasons for making the order or, as the case may be for issuing the direction and shall provide a copy of the order or as the case may be, the direction to the person affected prejudicially.

15. Section 24-A of the General Clauses Act, 1897, mandates that statutory powers are to be exercised in a reasonable, fair, and just manner, strictly in accordance with law. The provision further requires the executive authorities to record reasons for their decisions, thereby ensuring transparency and lawful exercise of administrative powers. Any action taken contrary to these settled principles is liable to be struck down. Reliance is placed upon the judgments of the Hon'ble Supreme Court of Pakistan in the cases of *Muhammad Amin Muhammad Bashir Limited v. Government of Pakistan through Secretary, Ministry of Finance and others* (2015 SCMR 630), *Muhammad Ashraf Tiwana and others* (2013 SCMR 1159), and *Habibullah Bhutto v. Collector Customs and another* (2011 SCMR 1504).

16. Now, coming to the proposal advanced by the petitioner for resolving the issue, whereby he offered that the Girls School may be renamed in the name of his mother and, in consequence thereof, he would withdraw his claim, it is necessary to examine whether such proposal finds support under the relevant law. In this regard, **Section 86 of the Sindh Local Government Act, 2013**, provides the mechanism for naming or renaming of public institutions. The proposal advanced by the petitioner appears to fall within the scope of clause (d) of the said provision. For ready reference, the relevant section is reproduced hereunder:-

86. Guidelines for naming or renaming.- Naming or renaming under section 85 may be made after –

(a) the founder of the nation or any person who took a prominent part in the creation of Pakistan;

(b) a national or local personality with an unblemished record of service to the nation;

(c) a person famous for his work in the field of art, culture, science and education or notable public service;

(d) the principal donor of any building or institution built or set up for charitable purposes;

(e) non-Pakistani with the permission of Government

17. For the foregoing reasons and discussion, the matter in hand can be resolved amicably by the competent government functionaries, as the same involves consideration of an administrative decision within their lawful domain. The government authorities are at liberty, in accordance with law, to consider and accept the proposal advanced by the petitioner, if permissible under the relevant provisions. Nonetheless, in the event such proposal is not found acceptable or permissible under the law, the authorities shall be required to initiate appropriate proceedings for payment of compensation of the land strictly in accordance with the prescribed legal procedure and shall determine and pay the compensation in accordance with the applicable law.

18. In view of the foregoing facts, reasons, and discussion, the instant Constitutional petition is hereby disposed of with the following directions:

(a). The Secretary, Education and Literacy Department, Government of Sindh, is directed to consider and examine the proposal advanced by the petitioner regarding renaming of the Girls Middle School in question after the name of his mother, strictly in accordance with the relevant provisions of law, including the applicable statutory mechanism. If such proposal is found legally permissible and otherwise in accordance with law, the competent authority may proceed accordingly for amicable resolution of the matter.

(b). In the event that the said proposal is not found acceptable, the Secretary, Education and Literacy Department, Government of Sindh, along with other concerned authorities,

shall be under an obligation to initiate proceedings strictly in accordance with the provisions of the Land Acquisition Act, 1894, and other applicable laws, and thereafter to determine and pay compensation in accordance with law. The compensation shall be assessed in accordance with the prescribed procedure, keeping in view of all statutory benefits admissible to the landowner under the law.

(c). The entire exercise shall be completed by the Secretary, Education and Literacy Department, Government of Sindh, within a period of two months from the date of communication of this order.

(d). A copy of this order be communicated to the Secretary, Education and Literacy Department, Government of Sindh and Chief Secretary, Government of Sindh, Karachi, for information and necessary compliance. The Chief Secretary, Government of Sindh, personally or through an officer duly authorized by him not below the rank of Secretary, Education and Literacy Department, Government of Sindh, shall observe and supervise the progress of the matter so as to ensure compliance of the directions contained herein in letter and spirit.

JUDGE

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