



- b) Declaration, that the act of Defendant No.4 & 5 of issuing threats of forcible dispossession of Plaintiff from the suit land and/or would attempt to dispossess the Plaintiff or interfere in the peaceful possession of the Plaintiff of the suit land is illegal, unlawful, void, ab-initio, malafide, without due course of law and not binding on the Plaintiff.
- c) Permanent injunction, restraining the Defendant No.2, 4 & 5, their agents, servants, legal representatives, assignees or any person or persons claiming through them directly or indirectly in any way from interfering in the peaceful possession of the Plaintiff in suit land and / or issuing threats of forcible dispossession of Plaintiff or would attempt to dispossess the Plaintiff from the suit land and / or doing any act/thing prejudicial to the interest of Plaintiff without due course of law till the final adjudication of this suit.
- d) The Defendants shall bear the costs of the suit.
- e) Any other relief which this Hon'ble Court may deem fit and proper be granted to the Plaintiff.

3. The basis of seeking permanent injunction was allotment order in respect of the respective suit land issued by the Deputy Commissioner (Settlement), Thatta under the Land Grant Policy framed by the Government of Sindh, Land Utilization Department, published in official Gazette on **8.7.1997**, (hereinafter the Policy, of 1997) when the respondents were cultivating their respective lands. The applicants herein attempted to dispossess the private respondents on the pretext that the land allotted to them by the Deputy Commissioner (Settlement) Thatta belongs to the Forest Department. It is, pertinent to mention here, as pointed out by the learned counsel for the Respondent, that in their respective suits the

Deputy Commissioner, Thatta, Taluka Mukhtairkar Jati and Mukhtairkar (Settlement) Thatta at Makli were also impleaded as the said Government officials in exercise of power conferred on them under the policy of 1997 had allotted the respective lands to the respondent(s). The present applicants were impleaded since their staff and official had attempted to forcibly dispossess the respondents. However, in appeal as well as in revision the Secretary, Forest Department and Divisional Forest Officer, Thatta, have not even shown the aforesaid other main Defendants as respondents in appeal and even before this court.

4. The private respondents had filed suits against the present applicants and other Government official to avoid their forcible dispossession from the suit land without due course of law. The applicant disputed the claim of respondents whereas the other official Respondent did not dispute claim of respondent/Plaintiff. The trial court out of the pleadings of the parties framed the following issues.

1. Whether the suit is not maintainable?
2. Whether the suit is barred by law?
3. Whether the suit is not properly valued and un-sufficiently stamped?
4. Whether Plaintiff is the owner of the suit land?
5. Whether the suit land belongs to the forest department?
6. Whether the suit land belongs to the Revenue department?

7. Whether Plaintiff is in possession of the suit land?
8. Whether Plaintiff is entitled to the relief prayed for?
9. What should the decree be?

The private respondent in support of their claim produced various documents which were official documents and the same were not challenged. Therefore, the undisputed documents going to the roots of the claim of the respondent(s) that they have lawfully acquired the suit land under a Government policy was proved. All the issues were decided in favour of the private respondents including issue No.5 that whether the suit land belongs to the forest department and the Courts below permanently restrained the forest department or anyone to dispossess the respondent from suit land. Obviously, such restraining order was not against any due process of law, if any. Applicant preferred appeal bearing civil appeals No.55 to 71 of 2002 and the appeals were also dismissed by the First Appellate Court.

5. I have heard counsel for the applicants and Respondent and perused record.

6. The Mukhtairkar (Settlement), Thatta has admitted the claim of the private respondents that they were duly allotted suit land by the orders of the Deputy Commissioner (Settlement) in accordance with Government Policy of 1997. Learned counsel for the State has only contended that the respondents should have approached the Revenue authorities

under **Section 172** of Land Revenue Act, 1967. However, he was unable to elaborate since there was no adverse order from Revenue Authority under the Land Revenue Act, 1967 against the respondents. The suit was only for permanent injunction on the basis of lawful possession of suit land and allotment orders in favour of the private respondents by the competent authority. The line of arguments taken by the learned counsel for the applicant was contrary to the facts. In fact the applicants instead of having taking law in their own hand and attempting to forcibly dispossess the private respondents from the suit land, they should, at least after having going through the written statement, of the Mukhtairkar (Settlement), Thatta, should have filed appeal or revision before the Commissioner (Settlement) against the grant suit land (for the sake of arguments Forest land) by the Deputy Commissioner (Settlement) to the private respondent. The applicants should have attempted to get the orders of the Deputy Commissioner (Settlement) recalled or set aside by competent forum. Till date neither before the trial court as well as appellate court or even in this court, the applicants have not filed any document to show that they were aggrieved by the order of the Deputy Commissioner (Settlement) granting suit land to the private respondents.

7. In view of the above facts as long as the order of the Deputy Commissioner (Settlement) Thatta is holding the field in accordance with the provision of Government Policy of 1997,

the private respondents are entitled to remain in possession of the suit land granted to them. The two courts hardly had any option to refuse a prayer to treat the respondent in accordance with law. The applicant cannot be allowed to use force against the lawful allottees and even against trespasser when the courts of law are functioning, they should have approach at least civil court, if not the revenue authority, to seek repossession of Forest land from the private respondents. Failure of the applicant/forest department to file even a civil suit till date is more than enough to appreciate that they are not owner of the suit land. However, they are still free to assert their claim in any competent forum and seek remedy according to law, if so desired.

In view of the above, these revisions are dismissed alongwith listed applications and the forest department / official respondents are hereby restrained from taking any coercive action except in accordance with law for removal of the private respondents from the suit land.

Consequently, these revisions are dismissed.

JUDGE