ORDER SHEET IN THE HIGH COURT OF SINDH AT KARACHI

R.A No.126 & 128 / 2005

Date Order with signature of Judge

- 1. For hearing of CMA No.679/2011 (U/o.1 Rule 10)
- 2. For hearing of CMA No.1600/2005 (stay)
- 2. For hearing of Main Case

31.08.2016

M/s. Ziaullah Junajo, Syed Alley Maqbool Rizvi, AAG & Ms. Naheed Akhter, State Counsel.

Mr. Mazhar Ali B. Chohan, advocate for the Respondents.

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Nazar Akbar.J.- After hearing of the counsel for the parties, it has been found that Respondent No.1 has filed the suit without exhausting the remedies available to him under the Land Revenue Act, against the order of Assistant Commissioner impugned in the following prayer clause(b).

(b) Declaration that the order dated **12.7.2001** passed by the defunct Assistant Commissioner Sujawal as well as reports made by the Assistant Commissioner Sujawal, Mukhtiarkar Shah Bunder and Barrage Mukhtiarkar Sujawal and also the note marked by the Mukhtiarkar Sujawal on the deh Form VII entry in the name of the Defendant No.6 cancelling the entry or entry of the Plaintiff is/are null, abinitio, void, illegal, unlawful malafide of no legal effect, without any lawful authority and not binding on the Plaintiff.

The first ground taken by Respondent No.1 before trial court in suit was that the order dated **12.07.2001** passed by the learned Assistant Commissioner, Sujawal was without hearing and notice to him.

2. Learned counsel for the Respondent has attempted to show that the relevant Assistant Commissioner was working on the administrative side and not on the revenue side, therefore, he should not have passed impugned order. However, he failed to point out from the document and/or law that orders impugned should have been passed by other Assistant Commissioner or the same authority. Be that as it may, this revision is disposed of with the observation that relevant Assistant Commissioner or DDO or any other officer with whatever name as of today is competent to act on the report made by the officers mentioned in the prayer clause-B reproduced above, may pass afresh order on such report or any other report may be filed by the revenue authority in accordance with law after notice to Respondent No.1. However, pending such proposed action afresh by the Assistant Commissioner or the relevant revenue authorities, no coercive action should be taken against Respondents.

With the above observation, both the revisions stand disposed of.

JUDGE