

ORDER SHEET

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

C. P. No. D — 3425 of 2016.

DATE	ORDER WITH SIGNATURE OF JUDGE
<u>31.01.2017.</u>	

FOR ORDERS ON OFFICE OBJECTIONS.
FOR KATCHA PESHI.

Mr. Wali Muhammad Khoso, Advocate for petitioners.
Mr. Allah Bachayo Soomro, A.G. Sindh.

Through the instant Constitution Petition the petitioners Zulfiqar Ali and Shamsuddin have prayed for the following reliefs:-

- a). Direct the respondents No.3 and 4 not to harass the petitioners and their family members in any form or manifestation as a result of inquiry into complaint No.17 of 2008 as no government interest is involved into the matter; besides, the matter in controversy has already been decided by the competent civil court vide judgment and decree dated 2.12.2016 in favour of the lawful owner and learned Member Board of Revenue Sindh Hyderabad, also decided the matter vide order dated 2.8.2013.
- b). To set aside/quash the proceedings offshoot of complaint No.17 of 2008 pending before the respondents No.2 and 4.
- c). To restrain the respondents No.3 and 4 from registering any false F.I.R. against the petitioners till final decision of the petition.
- d). To direct the respondents No.3 and 4 to furnish statements before this Honourable Court that they will not harass the petitioners and their family members in any form or manifestation.

Notices were issued to the respondents A.A.G. Comments have been filed by Respondent No.7 Mukhtiarkar (Revenue) and City Surveyor

Tando Muhammad Khan. In the comments filed by respondent No.7 it is mentioned as under:-

“It is submitted that the matter was challaned in various Courts i.e.Revenue and well judicial level upto Honorable High Court. Wherein, the reports were submitted by the Revenue authorities that this is purely private parties dispute and no government interest is involved in it. It is further submitted that the Honorable High Court of Sindh, in various cases has ordered that no any private case is to be heard or entered in the Anti-Corruption Courts and no any F.I.R. should be lodged against the officials / officers. Such letters have also been issued by the Senior Member, Board of Revenue Sindh to all sub-ordinates officers. Now recently the Honourable High Court of Sindh Circuit Court Sukur has also ordered and directed to the Anti-Corruption Department that no any private parties should be heard by them and no any action should be taken against government officers / officials in the private dispute of the parties. Therefore the Anti-Corruption authorities are beating the dead horse because matter was already decided by the competent Court of law and attained finality.

In view of the facts stated above it is submitted that dispute was between the owners and the encroachers and no Government interest was involved in to the matter, which could not be defended on the public expenses.”

Learned Advocate for petitioner submits that controversy between the parties has already been adjudicated by the competent court of law yet the respondents No.2 to 5 on the complaint are causing harassment to the petitioners without any legal justification.

Learned A.A.G. submits that Mukhtiarkar (Revenue) in his comments has given the details regarding controversy and has mentioned that there is dispute between the parties and encroachers and no Government interest is involved in the matter. However, learned A.A.G. undertakes that official respondents shall act according to law.

Learned Advocate for the petitioner submits that respondents No.2 to 5 may be directed to dispose of the complaint in accordance with law. In

the view of above, we dispose of the petition with direction to the respondents No.2 to 5 to act strictly in accordance with law.

JUDGE

JUDGE

A.

