

ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD

R.A No. 57 of 2009

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For Katcha Peshi.
2. For hearing of C.M.A 362/09

07.12.2016.

None present.

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On last date of hearing, the matter was adjourned only by way of an indulgence and with an observation that on next date of hearing if no one appears for the parties and particularly applicant's side, this matter will be dismissed for non-prosecution.

This civil Revision Application has called in question the order dated 28.02.2009 passed by the learned Appellate Court in Civil Appeal No. 43 of 2005, which has dismissed the re-admission/restoration application under Order 41 Rule 19 of CPC alongwith the application under Section 5 of Limitation Act. A perusal of the impugned order shows that it has been passed after giving ample opportunity to the Counsel for the applicant, whose main contention was that delay for non-payment of process fee and non-compliance of other requisite formalities occurred due to the fact that he was under the impression that parties are going to compromise/settle their dispute. In paragraph-2 of the impugned order it has been specifically mentioned that the above application for re-admission of appeal was filed after two years, six months and six days of the prescribed time and thus was hopelessly time barred.

In the present Revision Application primarily the impugned order has been challenged on the ground that the learned Appellate Court has failed to consider a very material aspect of the matter that the parties were about to

compromise their dispute and therefore, the appellant, who is present applicant, did not comply with the requisite formalities, which includes payment of cost and process fee. The other ground for justifying the delay in filing the above application under Order 41 Rule 19 of CPC was that the factor at that time was beyond the control of the applicant. However, it has not been specifically stated that what were those *force majeure* factors, which compelled the present applicant not to comply with the legal formalities and file restoration application after such a long delay.

The overall conduct of the applicant in present Revision Application is not different from what has been observed in the impugned order passed in the above civil appeal, as the order sheets of various dates of instant Revision proceeding clearly show that applicant's side has failed to proceed with the matter without any plausible reason.

In view of the above matter, I do not find any material irregularity in the impugned order, which necessitates an interference in the revisional jurisdiction and consequently the instant Civil Revision Application is dismissed being *de void* of any merits alongwith listed application. Parties are left to bear their own costs.

JUDGE

ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD

C.P No.S- 1626 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection
2. For Katcha Peshi.
3. For hearing of M.A 14130/16

07.12.2016.

Mr. Muhammad Hashim Laghari, Advocate alongwith petitioner.

Mr. Ashfaque Nabi Kazi, Assistant A.G.

Mr. Ahsan Gul Dahri, Advocate for applicant/intervenor.

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The learned Commissioner has filed his report dated 07.11.2016. A close scrutiny of the report shows that there are rival claims with regard to office premises of All Pakistan Oil Tanker Association, which obviously cannot be decided in the present proceeding. However, Paragraph-14 of the report is somewhat a cause of concern, as senior officials from Oil Marketing Companies, viz. Shell, PSO and Hascol, which have their storage facilities at the locality, have stated that some miscreants resort to extortion. Mr. Muhammad Hashim Laghari learned Counsel representing the petitioner submits that police has illegally sealed the Union Office and the private respondents are not allowing the petitioner to discharge their functions as office bearers of the Association. Learned A.A.G has categorically stated that he will inquire from the concerned SSP that whether or not the office of the Union has been sealed and if the same has been, then under what authority. However, Paragraph-2 of the report states that no police official was seen at the site.

This petition is disposed of alongwith listed application, but with a direction to official respondents that they should discharge their functions strictly in accordance with law and in a fair, just and reasonable manner without

patronizing any group or individual, who are party to the present proceedings. It is further directed that if it is found after inquiry that the premises in question has been sealed without any lawful authority, then the same shall be de-sealed forthwith and the official respondents will ensure that no law and order situation is created at the site. Police officials should ensure that commercial activities at the site should continue in a smooth manner and particularly no harassment should be caused to the officials of Oil Marketing Companies who are engaged in a rather sensitive commercial venture. However, it is clarified that no individual either petitioner or respondents will take undue advantage of the earlier orders passed in the present proceeding. Both the parties; petitioner and private respondents are at liberty to seek redressal of their grievance before a proper forum by invoking due process of law and they are not allowed to take law in their hands. With these observations and directions, instant petition stands disposed of.

Copy of this order be immediately communicated to the A.A.G office as well as to the concerned D.I.G and SSP for strict compliance.

JUDGE

ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD

C.P No.S- 1668 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on M.A 17620/16
2. For orders on office objection
2. For Katcha Peshi.
3. For orders on M.A 14613/16

07.12.2016.

Mrs. Razia Ali Zaman Khan Patoli, Advocate for petitioners.

Mr. Ashfaque Nabi Kazi, Assistant A.G.

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1. Granted.

2to4. It is contended, inter alia, that still the petitioners are living under threat from their relatives/private respondents.

To come up on 19.12.2016, to be taken up at 12:00 noon on which date the concerned SHO will ensure that he is present in Court alongwith private respondents No.4,5,6 namely; Shabir, Nazeer and Sawan. The I.O of Crime No. 43 of 2016 is also directed to be present in person on the next date of hearing.

Copy of this order be communicated to A.A.G Office as well as S.S.P Badin for strict compliance in order to avoid adverse consequences against the police officials.

JUDGE

ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD

C.P No.S- 1725 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on M.A 17838/16
2. For orders on office objection
2. For Katcha Peshi.
3. For orders on M.A 15339/16

07.12.2016.

Mr. Noor Ahmed alias Rabbani, Advocate for petitioners.

Mr. Ashfaque Nabi Kazi, Assistant A.G.

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1. Granted.

2to4. It is contended, inter alia, that private respondents are causing unabated harassment to the petitioners because of which the petitioners are unable to continue their business at Nawabshah.

Repeat notices to the private respondents by all modes except publication and to official respondents. The concerned SHO will ensure presence of respondents No.5 to 8 namely; Shabir Magsi, Raees Dilla, Tayyab and Wahidoo in Court on the next date. The police/official respondents will ensure that no law and order situation is created amongst the parties and also will ensure that no harassment is caused to the petitioners and the official respondents will also provide protection to the petitioners, if they are approached with such a request.

To come up on 19.12.2016.

JUDGE

ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD

C.P No.S- 1815 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection
2. For Katcha Peshi.

07.12.2016.

Mr. Karim Bux Rind, Advocate for petitioner.

Mr. Ashfaque Nabi Kazi, Assistant A.G.

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Petitioner's Counsel has placed on record a FIR, which has been lodged against the petitioner being FIR No. 219 of 2016 at P.S Sakrand. He further contends that this FIR is based on malice and was lodged after passing of the order of 08.11.2016.

Be that as it may, the petitioner is at liberty to contest the case before the concerned Court and if at all the Court reaches the conclusion that the FIR was false and bogus, the remedy under the law is available to the petitioner, which can be availed before the concerned fora. He further contends that he is also in possession of cheques of private respondents, which were dishonored but the police is not lodging the FIR. In this regard, police officials are directed to act strictly in accordance with law while discharging their duties.

In view of the above observations, this petition is disposed of.

JUDGE

ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD

C.P No.S- 1843 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection
2. For Katcha Peshi.

07.12.2016.

Mr. Irfan Ali Rahoojo,, Advocate for petitioner.

Mr. Ashfaque Nabi Kazi, Assistant A.G alongwith ASI Imtiaz Ahmed, Incharge Shapur Jahania.

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Today, private respondents are present in person. According to private respondent Khan Muhammad, a part of the land in question was sold to him by the petitioner and the petitioner does not even reside there.

The ASI Imtiaz Ahmed, Incharge P.P, Shahpur Jahania, states that a police picket has also been established there and they will ensure that no law and order situation is created by miscreant. He further undertakes that police will ensure that petitioner is not harassed by any individual including the private respondents.

This petition is disposed of in view of the above observations and with the direction to the police officials that no harassment should be caused to the petitioner. However, it is clarified that if private respondents have any genuine grievance against the petitioner, the same can only be redressed through due process of law, similarly, if the petitioner has some *bona fide* issue with regard to his cultivation, the same can be addressed by proceeding before the proper fora including the Revenue Authorities, which will take the decision in the matter expeditiously and strictly in accordance with law.

JUDGE

ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD

C.P No.S- 1850 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection
2. For Katcha Peshi.
3. For hearing of C.M.A 16523/16

07.12.2016.

Ms. Shabana Noreen Khan, Advocate for petitioner.

Mr. Ashfaque Nabi Kazi, Assistant A.G.

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All the private respondents are present in person, who are presented by their Counsel Mr. Abdul Shakoor Keerio.

Respondents have categorically stated that they have not caused any harassment to the petitioners. However, their grievance is that their daughter has contracted marriage with son of petitioner. If the private respondents have any grievance, they can seek redressal of the same in accordance with law but they cannot cause any type of harassment to the petitioner.

This petition is disposed of alongwith listed application in view of the above observations and with the directions that police/official respondents will ensure that no law and order situation is created amongst the parties and no one should be allowed to take law in their hands. The respondents including private respondents are restrained from causing any harassment to the petitioner and if the private respondents have any genuine grievance against the petitioner they are at liberty to seek its redressal by invoking due process of law and not otherwise.

JUDGE

ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD

Cr. Reference No.15 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE
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For orders on reference received from District and Sessions Judge, Mirpurkhas.

07.12.2016.

Syed Meeral Shah D.P.G. for the State.

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A Reference has been sent by the learned 2nd Additional Sessions Judge, Mirpurkhas, in which he has disclosed that Mr. Waseemuddin Abid Shaikh, Advocate, who is the Counsel of accused in Sessions Case No. 258 of 2014 (State Versus Syed Mardan Ali Shah and others), is also the Counsel of the learned Judge in some family matter and, therefore, the learned Judge has requested that the above referred Sessions Case may be heard by some other learned Judge.

In view of this matter, it is ordered that either the above mentioned criminal case, that is, Sessions Case No. 258 of 2014 be heard by the concerned Sessions Judge, Mirpurkhas, or he may assign it to some other learned Judge other than the learned 2nd Additional Sessions Judge, Mirpurkhas, for deciding the same in accordance with law.

The reference is disposed of accordingly.

JUDGE