

**ORDER SHEET**  
**HIGH COURT OF SINDH AT KARACHI**

C.P. No.D-2080 of 2016

Date

Order with Signature(s) of Judge(s)

**Present:**

Mr. Justice Muhammad Ali Mazhar

Mr. Justice Abdul Maalik Gaddi

Qurban Ali & another.....Petitioners

Versus

Government of Sindh & others.....Respondents

**21.3.2017**

Mr. Saleem Mangrio, Advocate for the Petitioners.

Mr. Ahmed Ali Ghumro, advocate for Respondent Nos.1 to 4.

None present for Respondent Nos.5 and 6.

Mr. Jameel Raza Zaidi, Advocate for Respondent No.7.

Ahmed Ali, Respondent No.7 is present.

Mr. Saiful Islam, Advocate.

Ms. Nigar Afaq, State Counsel.

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**Muhammad Ali Mazhar-J.** This petition has been preferred to challenge the order dated 07.10.2009 passed by District Officer (Revenue), Larkana on Misc. Application No.Nil of 2009.

2. Brief facts of the case are that the respondent No.7 had filed an application on 14.7.2009 regarding some land dispute in survey Nos.499, 500 and 501. It was alleged in the application that according to the Revenue Land record Survey No.499 measuring 1.16 acres, Survey No.501 measuring 1.37 acres are the ancestral properties of Nisar Ahmed, whereas survey No.500 measuring .24 acres shown as barrage land, which was allotted to Ali Gohar Khoso.

3. After calling report of Mukhtiarkar, Larkana sent to District Officer (Revenue) and verification of relevant record and denial of the owner of

property i.e. Nisar Ahmed Khoro, the District Officer (Revenue) came to the conclusion that record has been managed and forged by the beneficiaries namely Ali Gohar Khoso, therefore, the District Officer (Revenue) Larkana cancelled the entries and restored the property in the name of original owner. Since the petitioners have acquired the said land by way of registered sale deed, therefore, the District Officer (Revenue) Larkana also made observation that the owner of the property may move to the court of law for cancellation of registered sale deed as this power does not vest in the revenue courts.

4. Learned counsel for the petitioners referred to paragraph 9 of the memo of petition in which it is stated that one Hakim Ali sold the portion of land to the petitioners from survey No.500, while he and one Akhtar Ali Gaad sold 09 Ghuntas from survey No.501, 1.14 acres from survey No.499, whereas 01 Ghunta from survey No.502 through a registered sale deed and also handed over the possession, therefore, the petitioners have become lawful owners of the property. It is further argued by the learned counsel that the impugned order was passed under some influence and District Officer (Revenue) was not competent to pass any such order. He further argued that the impugned order has been passed without providing any opportunity of hearing to the petitioners, which is also against the principle of natural justice.

5. The learned counsel for the respondent No.7 filed an affidavit of respondent No.7, who is also present. The learned counsel for respondent No.7 argued that in terms of this affidavit, the respondent No.7 has

withdrawn all his previous claims against the land in question. He further admitted that he never challenged the registered sale deeds of the petitioner in any court of law and he further admits that the petitioners have acquired valid titles in respect of the land in-question through two separate registered sale deeds from the previous owners, whose names are mentioned in the revenue record of rights.

6. In fact the entries were cancelled on the application of respondent No.7, which is clearly reflecting from the impugned order, but now the petitioners and the respondent No.7 are not at issue, which fact has been confirmed by the learned counsel for the respondent No.7 in pursuance of the conditions mentioned in the affidavit and the respondent No.7 has also affirmed the contents of his affidavit.

7. Be that as it may, the petitioners have prayed that the impugned order may be set aside which is illegal, ultra vires and without jurisdiction. We have also noticed that no opportunity of hearing was afforded to the petitioners, which was their constitutional and fundamental right, specially when their claim is based on registered sale deeds and this was the reason that even in the impugned order, though opportunity was not provided, but the District Officer (Revenue) was cognizant to the fact that the right was acquired through registered sale deed so for this reason, the observation was given by him that the owner may challenge the registered sale deed in the court of law for cancellation.

8. Learned counsel for the Board of Revenue is also of the view that before passing this order, an opportunity of hearing should have been

afforded to the petitioners which lacks in this case so he proposed that the matter may be remanded for passing fresh order after hearing the parties.

9. As a result of above discussion, the impugned order dated 07.10.2009 is set aside. The matter is remanded back to the District Officer (Revenue), Larkana to decide the matter afresh in accordance with law after providing ample opportunity of hearing to the petitioners and respondent No.7 and other stakeholders. While passing the order, the Authority may also consider the affidavit of respondent No.7 filed today in this court and the certified true copy of the affidavit may be placed before the District Officer (Revenue), Larkana by the petitioners and/ or the respondent No.7. This exercise should be completed within two months. This petition is disposed of accordingly alongwith pending applications.

Judge

Judge