

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Suit No.897 of 2010.

Date Order with signature of Judge

For hearing of CMA No.5468/2012.

05.10. 2016

Ms. Sara Kanwal, Advocate for plaintiff.
Mr. Abdus Salam Memon, Advocate for Defendant No.1.
Mr. Ziauddin Jonejo, A.A.G.
Ms. Nigar Afaq, State Counsel.
Arif Ahmed Kalwar, Assistant Commissioner, Gulshan-e-Iqbal and
Ghulam Shabir, Mukhtiarkar, Gulshan-e-Iqbal.
SIP Muhammad Zubair, P.S. New Town.

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Reply of Show cause notices filed today are taken on record. And further they undertake to file written statement.

By order dated 31.01.2011 it was observed that *"I had directed the Assistant A.G. to ensure that the written statement has been filed and according to him he has yet to receive comments. On the next date, the DDO (Revenue), Gulshan Town, Karachi, Mukhtiarkar (Revenue), Gulshan Town, Karachi and the Muthtiarkar, Goth Abad Scheme, Sindh shall be in attendance with original record and by that time they may also file their written statement."*

Thereafter, on many dates warrants were issued against Mukhtiarkar and Assistant Commissioner but they failed to appear before this Court and file written statement .

Further order dated 05.10.2015 and is that:

"1. Learned counsel for defendants 1 and 2 requests for time to file objections to this report submitted by the Nazir. Let objections, if any, be filed within two(02) weeks with advance copy to the learned counsel for the plaintiff.

2 to 5. By Consent, differed for the time being.

6. Learned counsel for the plaintiffs requests for time to file counter affidavit to this application for rejection of the plaint. Counter affidavit and rejoinder, if any, shall be filed and exchanged by the learned counsel before the next date of hearing.

7. The matter is fixed for ex-parte orders against defendants 6 to 9 Service upon them was held good by the

Additional Registrar (OS) on 10.11.2011 when four (04) weeks' time was granted to them to file their written statements. Despite proper service, the said defendants have not filed their written statements till date. Learned A.A.G requests that last and final opportunity be granted to the said defendants. Let written statements be filed by defendants 6 to 9 within three (03) weeks from today, failing which the Suit shall proceed ex-parte against the said defendants without any further order. Learned counsel for the plaintiff has invited my attention to the order dated 31.01.2011 wherein it was observed that despite the fact that the suit property is a Government land, the officials of the Government are avoiding to take interest in this matter. On that date, the learned Assistant A.G. was directed to ensure that written statement is filed and that DDO (Revenue) Gulshan Town, Karachi, Mukhtiarkar (Revenue) Gulshan Town Karachi, and Mukhtiarkar Gothabad Scheme, Sindh, were specifically directed to appear on the next date with original record. Despite specific directions, the said order has not been complied with during the last about five (05) years. All the above named three officials are once again directed to appear before the Court in person on the next date along with the entire original relevant record. Qazi Majid Ali, learned AAG, undertakes to ensure their presence before the Court. It has been made clear to him that if any of the said officials is not present before the Court on the next date along with original relevant record,ailable warrants shall be issued for their appearance. Let copies of this order as well as the order passed on 31.01.2011 be communicated to the learned Advocate General Sindh within next three (03) days."

As well order dated 26.10.2015 which is also reproduced for the sake of brevity:-

"On the last date, DDO (Revenue) Gulshan Town, Karachi, Mukhtiarkar (Revenue) Gulshan Town, Karachi and Mukhtiarkar Gothabad Scheme, Sindh, were directed to appear before this court in person on the next date alongwith the entire original record. Such directions were given to them in view of the observations made on that date and also in view of the order passed on 31.01.2011. Learned AAG also undertook on the last date to ensure their presence before the court. It was made clear to him that if the said officials are not present before the court on the next date alongwith the original relevant record,ailable warrants shall be issued against them. Learned AAG states that in compliance of the said order, directions were issued to all the said officials on 12.10.2015, but they have not responded to such directions. In the above circumstances, letailable warrants be issued against DDO (Revenue) Gulshan Town, Karachi, Mukhtiarkar (Revenue) Gulshan Town, Karachi, and Muktiarkar Gothabad Scheme, Sindh, in the sum of Rs.25,000/- each."

Thereafter,ailable warrants were issued through SSP. in compliance of thereof Officials are present but yet they have not filed written statement. Apparently this is complete pejorative act of officials, whereas, it was also undertaken by the A.A.G. that they will file written stamen which cannot be ignored in any manner. The *officials* are always expected to be vigilant in responding to the proceedings, pending in Courts of law because the proceedings

are meant to determine *rights* of parties. It is always the demand *rather* spirit of administration of justice that the *rights* of parties should be determined within shortest possible time. A *designata* should never be taken or *exploited* to defeat or delay the lawful proceeding, involving *valuable* rights of private and *Government* rather the *Officials*, being served / noticed through their *designata* should always be on their *toes* either in defending *Government* interest or facilitating determination of rights of *private*. In either situations, the Officials do not speak of themselves but *always* speak through record. The *record* is believed to be safe in hands of *officials* hence they (officials) should not take more time in placing objections / comments or written statements than the one permissible by the law itself. The attitude and behaviour of the *Officials*, being *prima facie otherwise*, requires to be attended and examined by superior thereof. Accordingly, Chief Secretary, Sindh shall take action against those officials in light of above orders with the assistance of A.G. office that in future officials who are having intimation shall be directed with a note caution that they will appear and assist the Court, in case of failure departmental proceedings shall be taken against them.

Learned A.A.G. undertakes that he will personally look into the matter and file the written statement before the next date of hearing with advance copy to other side. Needless to mention that on next date application under Order VII rule 11 CPC would be also heard as well other application.

Attendance of police officials is dispensed with.

To come up on 26th October 2016.

Copy of this order shall be sent to Chief Secretary Sindh as well A.G. Office for compliance.

JUDGE