

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

**C.P. No. D- 307 of 2019**

**Present**

**Mr. Justice Muhammad Iqbal Kalhoro**

**Mr. Justice Adnan-ul-Karim Memon.**

Gulzar Ali ..... Petitioner

Vs.

Province of Sindh & others ..... Respondents

Date of Hearing: 18.02.2019

Mr. Faisal Nadeem Abro, advocate for the petitioner

**ORDER**

**ADNAN-UL-KARIM MEMON, J.-** Through the captioned petition, the petitioner is mainly seeking direction to official Respondents (police) not to cause harassment to him and provide legal protection against the private Respondents with further direction to official Respondents (revenue officials) from harassing the petitioner and dispossessing him from the subject land in any manner without due course of law.

2. The facts given rise to the instant petition as per memo of petition are that the father of petitioner purchased land bearing S.Nos. 100, 111, 112, 115, 116, 121, 127, 130, 132, 148, 149/1 A-B, 149/2 to 6, 152, 153, 154, 155, 156, 161, 178, 179, 180, 181, 182, 183, 421, 625, 626, 628, 810, 811, & 812 total admeasuring 11-29 acres , which was entered in the record of rights. Subsequently the father of petitioner transferred the said land through sale deed to the petitioner, which was also entered in the revenue record; therefore, the petitioner is in possession of the said land; that adjacent to the above land a land admeasuring 179 acres belongs to private Respondents, therefore, they through official Respondents are harassing

the petitioner and compelling him to sell the said land to them. Petitioner has submitted that the official Respondents are in league with the private Respondents and exerting pressure upon the petitioner to sell the aforesaid land to the private Respondents at the low market value. Petitioner has submitted that basically he is aggrieved by the actions of the revenue officials who are bent upon to deprive the petitioner from his propriety right on the subject land which act on their part is illegal and without lawful justification. Petitioner being aggrieved by and dissatisfied with the aforesaid actions of the respondents have filed this petition.

3. We asked from the learned counsel to satisfy this court with regard to maintainability of the instant petition on the ground that the relief which he is seeking from this court can be sought from the civil court. His submission proceeded on the assumption that when the petitioner makes out a case for invoking the extra ordinary jurisdiction under Article 199 of the Constitution, this Court would not relegate him to the alternative remedy of a civil court, merely because the matter involves an incidental examination of disputed questions of facts. The question that will ultimately weigh with this Court is whether the matter relates to a dispute having a public law element or violation of any fundamental right or to any arbitrary and high-handed action, as such this court can look into that aspect of the matter, therefore this petition is maintainable and can be heard and decided on merit. He further argued that the remedy by way of appeal though provided under the law but this court has jurisdiction to entertain the constitutional petition against harassment being caused by the official respondents. We however asked him as to how the petitioner can seek remedy sofaras purported harassment is concerned more particularly in the light of decision rendered by this court in Constitutional Petitions No. D – 2149 and 4729 of 2015, and 172, 935, 1110, 1111, 1112, 1113, 1114, 1115, 1116, 1117, 1118, 1119, 1122 and 1123 of 2018 vide common judgment dated 30.05.2018, wherby this court has held as under:-

“13. In view of the authoritative pronouncement by Hon’ble Supreme Court in Younas Abbas and others supra and the other

cases briefly discussed above, the argument of learned counsel for the petitioners that the remedy provided in Sections 22-A and 22-B Cr.P.C. is not speedy and effective or the Ex-Officio C.P. No.D-2149/2015 etc. Page 15 of 17 Justice of Peace cannot exercise such powers that can be exercised by the High Court, is not tenable. Their other argument that in case of harassment in more than one district, the Ex-Officio Justice of Peace can exercise jurisdiction only in his own district and not in other districts, also has no force as normally the aggrieved party seeks protection against the alleged harassment by police officials and private parties in the district where he resides or works for gain. Therefore, he can very conveniently approach the SHO concerned and upon his failure the Ex-Officio Justice of Peace of that district, and if for any reason he feels threatened in any other district also, he can simultaneously approach the SHO / Ex-Officio Justice of Peace of that other district as well. Such remedy, being speedy and inexpensive as held in Younas Abbas and others supra, can be availed by aggrieved party as long as his apprehension subsists. Certainly Article 199 cannot be invoked directly on such flimsy ground. It is important to note that it is not the case of any of the petitioners that the remedy provided by law was availed by them prior to invoking Article 199, but they are still aggrieved. In fact, it has been conceded on behalf of all the petitioners that they did not avail the remedy provided by law at all before filing these petitions.”

4. We have heard the learned counsel for the petitioner on the issue of maintainability and perused the material available on record.

5. In the light of forgoing, the position thus summarized in the principle that there are several disputed question of facts involved in the present case and Civil Suit in the court of law is the only remedy to go through the relevant record and evidences of the parties and the dispute like this as agitated by the petitioner in the present proceedings cannot be resolved in writ jurisdiction as this court has limited jurisdiction in like matters to dilate upon.

6. We are of the opinion that the petitioner has recourse under the law, and he is at liberty to avail the same in accordance with law.

7. In view of the aforesaid facts and circumstances, the Writ Petition stands dismissed in limine.

JUDGE

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