

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

C.P.No.D- 244 of 2019

DATE	ORDER WITH SIGNATURE OF JUDGE
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Present:-

*Mr. Justice Muhammad Iqbal Kalhoro.
Mr. Justice Adnan-ul-Karim Memon.*

1. For orders on M.A 1942/19
2. For orders on office objection
3. For orders on M.A 1386/19
4. For orders on M.A 1387/19
5. For orders on M.A 1388/19
6. For hearing of main case

19.02.2019

Mr. Muhammad Aslam Bhatti, Advocate for petitioner.

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1. Granted.

2to6. By means of this petition the petitioner is seeking a declaration to the effect that he is lessee of following land, which was leased out to him by respondent No.2 Muzafar Ali. Survey Nos. 255, 256, 257 & 258 share admeasuring 23.5 acres in Deh Kakayge, Survey Nos. 305, 318 admeasuring 2.5 acres share, Survey No.306, 307, 308, 309, 310 & 317 admeasuring 8.12 acres share, Survey Nos. 303/A-B-304/1-2 & 232/A-B admeasuring 10.06 ½ acres share and Survey No.286/A-B total about 43 acres agricultural land, Block B area 3.19 acres, Block 85A area 0.7 ghunta, Block 188B area 5.34 acres and 164A area 1 acre, in Deh Malok Halepota, total admeasuring 60 acres in the above survey numbers in both Dehs

The Petitioner appears to be aggrieved by writ of possession issued by learned Additional District Judge, Khipro in Execution Application No.01/2018 in the case of Ali Khan versus Ameer Bux and others. A photostat copy of writ of possession is filed at Page-17 of this file. His case is that since he is lawful

lessee of the aforesaid agricultural land, the writ of possession cannot be enforced as it is against his fundamental rights guaranteed under Article 25 of the Constitution of Islamic Republic of Pakistan, 1973.

When this petition was first taken up on 07.02.2019, we put the learned Counsel for the petitioner on notice to satisfy the court about its maintainability and adjourned this case to 14.02.2019 when its number could not be reached, and it was discharged. Today, on an urgent application moved by the petitioner we have taken up this case and heard the learned counsel for the petitioner who has mainly reiterated the facts as narrated above. We have examined the contents of petition as well as the only annexure filed by the petitioner in support of his case, which is a photostat copy of writ of possession. This document shows that in execution application No.01/2018 which is between Ali Khan and Ameer Bux and others, learned Additional District Judge, Khipro has directed the Deputy Commissioner, Mirpurkhas to depute some official to divide / separate the share of decree holder in the suit land, remove the judgment debtors or any other persons claiming through them his right from the suit land and also handover possession of the same to decree holder to the extent of his share in accordance with law under order XXI Rule 35 r/w section 54 of the Code of Civil Procedure, 1908; and also to ascertain / calculate the mesne profit as per market rate w.e.f 1988-89 till decree holder is put in possession of his share. This writ of possession in aforesaid execution application has been issued in pursuance of judgment and decree dated 30.08.2002, in consolidated suit No. 104/1989. Except the said document, no other document is available on record to appreciate contention of the petitioner that he is lessee of Muzafar Ali in respect of the suit land or for that matter said Muzafar Ali is the owner of suit land. The petitioner is not the party in the execution application and it is not clear that on the basis of what material he is claiming to be lessee of the suit land and has any interest therein.

From a perusal of writ of possession, it has become obvious to us that the applicant therein after a long litigation which appears to have started in 1988-89 has been able to obtain an order in his favour for obtaining his property which the petitioner by filing this petition, which is seemingly frivolous as it is not supported by any document, is trying to frustrate. As we have seen that the petitioner has not filed any document in support of his case or to show how this petition is maintainable in such circumstances or why the petitioner has not availed a legal remedy against the said order, this petition is palpably without merits and is accordingly dismissed in limine alongwith applications listed at serial No.3 to 5.

Before parting with this order we warn the petitioner to remain careful in future from filing the frivolous petitions in the court like the present one.

Let a copy of this order be sent to the executing court for information.

JUDGE

JUDGE