



Respondent No.2 : The Chief Resident Engineer, MMP Private Limited, Hyderabad. (Nemo).

**3. R.A No.102/2010**

Applicant No.1 : Province of Sindh through its Secretary, Land Utilization Department.  
 Applicant No.2 : The Deputy District Officer (Revenue) Land Acquisition Officer, PSMTI RBOD.  
 Applicant No.3 : The Project Director, RBOD Project, Karachi.  
 Applicant No.4 : The Superintending Engineer, RBOD Circle, Hyderabad.  
 Applicant No.5 : The Land Acquisition Officer, RBOD Project, Jamshoro.  
 Applicant No.6 : The Mukhtiarkar, (Revenue), Thatta.  
 Applicant No.7 : The Director (Land Record, Settlement & Survey). All through Mr. Ziauddin Junejo, A.A.G.

**Versus**

Respondent No.1 : Malook S/o Alah Bachayo, Through Mr. Fayaz Ahmed, Advocate.  
 Respondent No.2 : The Chief Resident Engineer, MMP Private Limited, Hyderabad. (Nemo).

**4. R.A No.103/2010**

Applicant No.1 : Province of Sindh through its Secretary, Land Utilization Department.  
 Applicant No.2 : The Deputy District Officer (Revenue) Land Acquisition Officer, PSMTI RBOD.  
 Applicant No.3 : The Project Director, RBOD Project, Karachi.  
 Applicant No.4 : The Superintending Engineer, RBOD Circle, Hyderabad.  
 Applicant No.5 : The Land Acquisition Officer, RBOD Project, Jamshoro.  
 Applicant No.6 : The Mukhtiarkar, (Revenue), Thatta.  
 Applicant No.7 : The Director (Land Record, Settlement & Survey). All through Mr. Ziauddin Junejo, A.A.G.

**Versus**

Respondent No.1 : Muhammad Azeem S/o Yar Muhammad Ramzan Through Mr. Fayaz Ahmed, Advocate.  
 Respondent No.2 : The Chief Resident Engineer, MMP Private Limited, Hyderabad. (Nemo).

**5. R.A No.104/2010**

Applicant No.1 : Province of Sindh through its Secretary, Land Utilization Department.  
 Applicant No.2 : The Deputy District Officer (Revenue) Land Acquisition Officer, PSMTI RBOD.  
 Applicant No.3 : The Project Director, RBOD Project, Karachi.  
 Applicant No.4 : The Superintending Engineer, RBOD Circle, Hyderabad.  
 Applicant No.5 : The Land Acquisition Officer, RBOD Project, Jamshoro.  
 Applicant No.6 : The Mukhtiarkar, (Revenue), Thatta.

Applicant No.7 : The Director (Land Record, Settlement & Survey). All through Mr. Ziauddin Junejo, A.A.G.

**Versus**

Respondent No.1 : Muhammad Ali S/o Ghulam Ali Memon Through Mr. Fayaz Ahmed, Advocate.

Respondent No.2 : The Chief Resident Engineer, MMP Private Limited, Hyderabad. (Nemo).

**6. R.A No.105/2010**

Applicant No.1 : Province of Sindh through its Secretary, Land Utilization Department.

Applicant No.2 : The Deputy District Officer (Revenue) Land Acquisition Officer, PSMTI RBOD.

Applicant No.3 : The Project Director, RBOD Project, Karachi.

Applicant No.4 : The Superintending Engineer, RBOD Circle, Hyderabad.

Applicant No.5 : The Land Acquisition Officer, RBOD Project, Jamshoro.

Applicant No.6 : The Mukhtiarkar, (Revenue), Thatta.

Applicant No.7 : The Director (Land Record, Settlement & Survey). All through Mr. Ziauddin Junejo, A.A.G.

**Versus**

Respondent No.1 : Wali Muhammad S/o Abdul Rahim Janwari, Through Mr. Fayaz Ahmed, Advocate.

Respondent No.2 : The Chief Resident Engineer, MMP Private Limited, Hyderabad. (Nemo).

**7. R.A No.106/2010**

Applicant No.1 : Province of Sindh through its Secretary, Land Utilization Department.

Applicant No.2 : The Deputy District Officer (Revenue) Land Acquisition Officer, PSMTI RBOD.

Applicant No.3 : The Project Director, RBOD Project, Karachi.

Applicant No.4 : The Superintending Engineer, RBOD Circle, Hyderabad.

Applicant No.5 : The Land Acquisition Officer, RBOD Project, Jamshoro.

Applicant No.6 : The Mukhtiarkar, (Revenue), Thatta.

Applicant No.7 : The Director (Land Record, Settlement & Survey). All through Mr. Ziauddin Junejo, A.A.G.

**Versus**

Respondent No.1 : Allah Bachayo S/o Muhammad Ramzan Through Mr. Fayaz Ahmed, Advocate.

Respondent No.2 : The Chief Resident Engineer, MMP Private Limited, Hyderabad. (Nemo).

**8. R.A No.107/2010**

Applicant No.1 : Province of Sindh through its Secretary,

Applicant No.2 : Land Utilization Department.  
The Deputy District Officer (Revenue)  
Land Acquisition Officer, PSMTI RBOD.  
Applicant No.3 : The Project Director, RBOD Project, Karachi.  
Applicant No.4 : The Superintending Engineer, RBOD Circle,  
Hyderabad.  
Applicant No.5 : The Land Acquisition Officer, RBOD Project,  
Jamshoro.  
Applicant No.6 : The Mukhtiarkar, (Revenue), Thatta.  
Applicant No.7 : The Director (Land Record, Settlement &  
Survey). All through  
Mr. Ziauddin Junejo, A.A.G.

**Versus**

Respondent No.1 : Ghulam Ali S/o Bachal,  
Through Mr. Fayaz Ahmed, Advocate.  
Respondent No.2 : The Chief Resident Engineer, MMP Private  
Limited, Hyderabad. (Nemo).

**9. R.A No.108/2010**

Applicant No.1 : Province of Sindh through its Secretary,  
Land Utilization Department.  
Applicant No.2 : The Deputy District Officer (Revenue)  
Land Acquisition Officer, PSMTI RBOD.  
Applicant No.3 : The Project Director, RBOD Project, Karachi.  
Applicant No.4 : The Superintending Engineer, RBOD Circle,  
Hyderabad.  
Applicant No.5 : The Land Acquisition Officer, RBOD Project,  
Jamshoro.  
Applicant No.6 : The Mukhtiarkar, (Revenue), Thatta.  
Applicant No.7 : The Director (Land Record, Settlement &  
Survey). All through  
Mr. Ziauddin Junejo, A.A.G.

**Versus**

Respondent No.1 : Dur Muhammad S/o Gulsher Janwari,  
Through Mr. Fayaz Ahmed, Advocate.  
Respondent No.2 : The Chief Resident Engineer, MMP Private  
Limited, Hyderabad. (Nemo).

Date of hearing : **04.12.2018**

Date of decision : **04.12.2018**

**JUDGMENT**

**NAZAR AKBAR, J:-** By this common judgment I intend to dispose of all the above nine Civil Revision Applications, as common questions of law and facts are involved in all these cases. In all these Civil Revision Applications pleadings of each Respondent No.1/ plaintiff are identical except the measurement of their suit land

involved in the suit and its location is different from each other. The land involved in these Civil Revisions are identified as follows:-

R.A No.100/2010(F.C Suit No.34 of 2005) (Civil Appeal No.21/09)

1. Land bearing survey Nos.490(4-0), 491(4-0) admeasuring 8 acres in Deh Smohi Tappo Khakher Hala District Thatta. (Acquired 4-0 acres of land).

R.A No.101/2010(F.C Suit No.35 of 2005) (Civil Appeal No.22/09)

2. Land bearing survey No.571 admeasuring 4-0 acres in Deh Smohi Tappo Khakher Hala District Thatta. (Acquired 3-10 acres of land).

R.A No.102/2010(F.C Suit No.36 of 2005) (Civil Appeal No.23/09)

3. Land bearing survey No.527 admeasuring 4-0 acres in Deh Smohi Tappo Khakher Hala District Thatta. (Acquired 1-0 acres of land).

R.A No.103/2010(F.C Suit No.37 of 2005) (Civil Appeal No.24/09)

4. Land bearing survey Nos.84, 92 & 93 admeasuring 3-06 acres in Deh Smohi Tappo Khakher Hala District Thatta. (Acquired 3-06 acres of land).

R.A No.104/2010(F.C Suit No.38 of 2005) (Civil Appeal No.25/09)

5. Land bearing survey No.461 admeasuring 4-0 acres in Deh Smohi Tappo Khakher Hala District Thatta (the suit land). (Acquired 3-0 acres of land)

R.A No.105/2010(F.C Suit No.39 of 2005) (Civil Appeal No.26/09)

6. Land bearing survey No.570, 602 admeasuring 4-0 acres in Deh Smohi Tappo Khakher Hala District Thatta (the suit land). (Acquired 4-0 acres of land).

R.A No.106/2010(F.C Suit No.40 of 2005) (Civil Appeal No.27/09)

7. Land bearing survey No.508 admeasuring 4-0 acres in Deh Smohi Tappo Khakher Hala District Thatta (the suit land). (Acquired 1-0 acres of land).

R.A No.107/2010(F.C Suit No.42 of 2005) (Civil Appeal No.28/09)

8. Land bearing survey Nos.530 and 531 admeasuring 8-0 acres in Deh Smohi Tappo Khakher Hala District Thatta. (Acquired 4-0 acres of land).

R.A No.108/2010(F.C Suit No.43 of 2005) (Civil Appeal No.29/09)

9. Land bearing survey No.556 admeasuring 4-0 acres in Deh Smohi Tappo Khakher Hala District Thatta (the suit land). (Acquired 0-25 Ghuntas of land).

All These Revision are directed against the identical judgments all dated **16.02.2010** whereby the Ist Addl. District Judge, Thatta

dismissed Civil Appeal **No.21/2009** to **29/2009** respectively filed by the applicants and maintained the judgment dated **30.05.2009** in F.C Suit **Nos.34/2005** to **40/2005, 42/2005 & 43/2005** respectively passed by Senior Civil Judge, Thatta in favour of the respective Respondents. For the convenience in this common judgment, I will refer to the facts from the Civil Revision Application No.100/2010.

2. Briefly stated the facts of these cases are that respondents filed identical suits for compensation for acquiring the land against the applicants stating therein that they are owners of an agriculture land in Deh Smohi Tappo Khakher Hala District Thatta (the suit land) which was granted to them by the then Revenue Officer Kotri Barrage, Hyderabad and the same was fully paid up and T.O Forms were issued, ultimately the suit land was entered in their respective names vide relevant entries dated **04.7.2002**. Subsequently, the Government sanctioned the construction of Right Bank Outfall Drain (RBOD) from Sehwan to Sea and this project was assigned to be accomplished by applicants No.3 to 5 through Respondent No.2. Respondent No.1 and other Khatedars had made an application to the Zilla Nazim for proper demarcation of the land being acquired for construction of the said project and requested that each owner of the land may be given the proper rights and submitted the sketches being carried out by the measurements of the lands. It was averred that and applicants and Respondent No.2 carried out demarcation of the suit land and acquired the same for construction of such project. The applicants have acquired 4-0 acres land of Respondent No.1 from survey Nos.490 and 491 for construction of said project. On **31.8.2003** Respondents made an application to applicant No.2 for payment of compensation at the rate of **Rs.200,000/-** per acre.

Respondent No.1 also approached applicant No.7 for doing survey and demarcation of acquired land but no proper action has been taken. It was further averred that Respondent No.1 came to know that the applicants were going to pass the award of compensation allowing a very low compensation to the Khatedars whose lands have been acquired for the said project and that too for a small area of land. It was also averred that Respondent No.1 had previously filed **civil suit No.17/2005** against the applicants for payment of compensation but the plaint was rejected under **Order VII Rule 11 CPC** on failure to pay Court fee. Thereafter Respondent No.1 again filed **suit No.34/2005** after payment of Court fee with the following prayers.

- a. *COMPENSATION that this Honourable court may direct the defendants to make the payment of the compensation to the plaintiff at the rate of Rs.100,000/- per acre for having acquired the area of 5-0 acres out of survey Nos.490, 491 total admeasuring 08-00 acres in deh Samohi, Tapo Khakhar Hala, Taluka and District Thatta.*
- b. *The defendants shall bear the costs of the suit.*
- c. *Any other relief, which this Honourable Court may deem fit and proper, be granted to the plaintiff.*

3. Summons of said suit were issued to the applicants/ Defendants and written statement was filed on behalf of applicant No.3 and 4 wherein they denied all the allegations leveled in the plaint and contended that Respondent No.2 was awarded contract for construction of RBOD project from Sehwan to Sea District Thatta and Respondent No.2 submitted details to applicants No.6 and 7 and the applicant No.6 issued notification under **Sections 4, 5 and 6** of the Land Acquisition Act in respect of the suit land and other lands and also issued notices to all affected persons for objections/ compensation of land etc. but after digging/excavation of the RBOD

project, applicant No.7 did not agree with the report of Respondent No.2 and visited the site and verified the Deh map and measured entire Deh alongwith Revenue Department and applicants No.2 and 3 and Respondent No.2 prepared new Deh map, list of affected survey members and its area required for RBOD project and on the basis of fresh report, the EDO, Revenue, District Thatta issued notification in respect of suit land and other lands of Deh Samohi. The applicants/defendants further contended in written statement that no suit land is coming under alignment of RBOD project, therefore, the question of payment of compensation of suit land and passing of award does not arise. The written statement filed by applicants No.3 and 4 was adopted by the District Attorney on behalf of other applicants. During pendency of suit, Respondent No.1/plaintiff made an application before the trial Court praying therein to decide the suit in view of the demarcation report submitted by the Mukhtiarkar (Revenue), Thatta, therefore, the trial Court decreed the suit with directions to the applicants to pass the award in respect of the suit land. Against said judgment and decree, the applicants preferred appeal before the District and Sessions Judge, Thatta, the said appeal was allowed and the suit was remanded to the trial Court for disposal on merits. Learned trial court from the pleadings of the parties framed the following issues:-

1. *Whether the defendants have acquired the suit land or any portion thereof for utilization the same in the construction of Right Bank Out fall Drain?*
2. *Whether the defendants have not paid the compensation of that acquired land or any portion thereof to the plaintiff?*
3. *Whether there is no cause of action against defendant No.5?*
4. *Whether the suit is not maintainable in accordance with law?*



5. *What should the decree be?*

4. Respondent No.1 filed his own affidavit-in-evidence as and produced several documents. Applicants No.3 and 4 examined their authorized person namely Habibullah. Witnesses of both sides were subjected to cross-examination. The trial Court after recording evidence and hearing learned counsel for the parties, decreed the suit filed by Respondent No.1 by Judgment dated **03.5.2009**. The applicants against the said judgment preferred **Civil Appeal No.21/2009** but the same was dismissed by judgment dated **16.02.2010** by the appellate court and this Revision is directed against the concurrent findings.

5. I have heard learned counsel for the parties and perused the record.

6. Learned counsel for the applicants has contended that the learned trial Court has decreed the suits without referring to the evidence led by the parties and the learned first appellate Court has endorsed the same in a mechanical manner despite the fact that there is no evidence of utilizing the suit land by the applicants/defendants in the project of RBOD. The land utilized in the project has already been duly compensated. He has further contended that in neither of the two judgments the Courts below have referred to any of the notification issued from time to time by the Government of Sindh under **Section 4** and **6** of the Land Acquisition Act.

7. The learned counsel for Respondent No.1 in rebuttal has supported the two judgments, however, when examined I noticed that the main issue of facts were issues No.1 and 2 and both the said issues on the face of it were wrongly framed by the trial Court, as the

issues were to be framed from the pleadings of the plaintiff and it was for the plaintiff/Respondent No.1 to prove that whether the plaintiff's land or any portion thereof has been acquired by the applicants/defendants in the construction of RBOD project as well as the plaintiff/ Respondent No1 was entitled for the compensation of the acquired land or any portion thereof and contrary to this principle of framing an issue, the issue was whether defendants/ applicants have acquired the said land. Be that as it may, if we examine the findings of the trial Court on the two issues when cannot resist from concluding that both the vital issues have been decided without any proof on the record. The entire findings on these issues are as brief as the following two short paragraphs:-

ISSUE NO.1 & 2

*Issue No.1 and 2 are interconnected as such taken up together. Plaintiff in the plain as well as in his evidence has stated that the Government sanctioned the Right Bank Out fall Drain from Sehwan to Sea and the project has been assigned to be completed to the defendant No.3 to 5 as the defendant No.5 is the company to whom the contract of construction plaintiffs land and the land of other Khatedars was acquired on which the construction work carried out, but no compensation awarded by the defendants inspite of repeated demand. Plaintiff in support of his claim produced the documents specifically the demarcation report of Mukhtiarkar Revenue Thatta confirming that the defendant have acquired the suit land for utilizing the same in the construction of Right Bank Out Fall Drain, but admittedly he has been compensated.*

*I have heard the arguments of learned counsel of both sides and perused the record and am incline to say that this fact has been admitted by the representative of the defendant that plaintiffs land was acquired for the above mentioned purpose but plaintiff still not compensated, no authentic evidence has been brought by the defendant to decline the claim of the plaint with plausible reason, while plaintiff has successfully proved his case. Hence Issue No.1 is to be answered in Affirmative, while Issue No.2 also in Affirmative.*

Then again the examination of the impugned judgment of the trial Court shows that issue No.5 regarding entitlement of the relief claimed without referring any mechanism of ascertaining the value of the claim at the rate of Rs.50,000/- per acre has been awarded in three lines and finding on issue No.5 is also reproduced below:-

ISSUE NO.5

*In view of the evidence which has been come on record from both sides plaintiff is entitled for the relief claimed to the extent of Rs.50,000/- per acres for having acquired an area of 5-0 acres out of S. Nos.490 and 491 total admeasuring 08-00 acres in Deh Samohi, Tapo Khakahar Hala Taluka and District Thatta. Hence Issue No.5 is to be answered in Affirmative.*

I am surprised that under what circumstances and on what basis the learned first appellate Court has concurred with such findings which are not supported by evidence.

8. In view of the above, both the findings of the two Courts below are perverse, as no evidence has been produced by the plaintiff/ Respondent No.1 nor any of the notifications of land acquisition department has been examined or produced by the plaintiff/ Respondent No.1 to show that their land was covered by any of such notification. Contrary to their evidence, there are official notifications under **Section 6** of the Land Revenue Act, 1967 in which several land including the land of the plaintiffs/respondents situated in Deh Samohi, Taluka and District Thatta have been clearly mentioned to have been **deleted**. Consequently, both the impugned orders are set aside and the suits filed by each Respondent No.1/plaintiff stand dismissed and all the above nine Revision Applications are allowed. These are the reasons for short order dated **04.12.2018**.

JUDGE

Karachi  
Dated:21.02.2019  
Ayaz Gul