

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

C.P. No.D- 1185 of 2017

Present:

Mr. Justice Muhammad Iqbal Kalhoro

Mr. Justice Adnan-ul-Karim Memon

Ali Sher ----- Petitioner

VERSUS

Province of Sindh
& others ----- Respondents

Dates of hearing: 06.03.2019

Date of decision: 06.03.2019

Mr. Muhammad Aslam Bhatti, advocate for petitioner

Mr. Allah Bachayo Soomro, Addl. A.G along with ASI Mumtaz Ali Jamali, PS Loni Kot, DSP Muhammad Khalid Nizam SDPO Jhirk for SSP Thatta

ORDER

ADNAN-UL-KARIM MEMON, J.- Through instant petition, the petitioner is seeking direction to the official respondents not to cause him any harassment and further directions to the official respondents to stop allowing the illegal and unlawful business of lifting of Reti/ Bajri from Neh Baran without lawful lease permit from Mining Department. He has further prayed that direction may be given to respondent No.8 to establish one police picket at Neh Bara, Loni Kot for maintaining law and order situation.

2. Petitioner's claim is that he is cultivating land near Neh Baran on the basis of tenancy and found some people involved in illegal business of lifting of Reti/ Bajri within the jurisdiction of district Jamshoro with the connivance of Mines & Minerals Department as such the entire vicinity has been seriously affected due to big holes and damage to the land of owners including the petitioner. We asked from the learned counsel representing the petitioner to satisfy this court regarding maintainability of the instant petition in view of The Sindh (prohibition of taking minerals including Reti / sand and Bajri from any land) Act, 2003, which prohibits the lifting of Reti and Bajri. Mr.Muhammad Aslam Bhatti learned counsel representing the petitioner has argued that the act of respondents is illegal, unjustified and without any jurisdiction and abuse of process of law as such the petitioner finding no way

has filed the instant petition to protect his valuable property rights from the land mafia for their illegal business of lifting Reti/ Bajri; that there is great apprehension of damage to the life and properties of the petitioner at the hands of police officials. We asked from learned counsel for the petitioner to show how he claims property rights in the instant petition as the Government of Sindh has already imposed a complete band with regard to lifting of Reti/ Bajri vide notification dated 11.07.2017 from the limits of District Jamshoro near Loni Kot, Nooriabad and Sann Nadi. He in reply to the query has referred to rejoinder filed by the petitioner on 2.8.2017 and argued that respondents No.3, 4 and 6 in spite of aforesaid notification are deliberately allowing unauthorized persons to lift Reti/ Bajri illegally and charge Rs.100 per truck. He asserted that the petitioner is also lessee for limestone and has been paying lease money to Government of Sindh Directorate of General Mines and Minerals Department. He in support of his contention has relied upon the Notification dated 14.9.2012 issued in favour of one Wahid Bux for a period of two years. To a question the aforesaid mining permission is for limestone and is in favour of Wahid Bux who is not party in the proceedings. He replied that he is partner of the petitioner.

3. We are surprised to note that activity of lifting of Reti/ Bajri and limestone in District Jamshoro near Loni Kot, Nooriabad and Sann Nadi despite government ban is taking place and the Respondents are not taking any action against the lifters which prima facie, show their connivance in such activity. We have noted that due to excessive lifting of reti and bajri despite a ban, the level of subsoil water has dropped to a dangerous level over the years and the whole irrigation system in the area is now dependent on sewage. Sand and gravel are being excavated in large quantities on a daily basis but no one from government side is taking interest to curb such atrocity. Today the respondent police officials have assured that removal of 'reti' and 'bajri' would not be allowed within their jurisdiction in the future. We direct SHOs' of the area and their superiors concerned to ensure that under no circumstances sand and gravel are allowed to be mined without government sanction.

4. No right of the petitioner to do mining of the minerals and or taking bagri or gravel has been established and it seems that under the garb of this petition he has continued such an activity illegally. This petition therefore being misconceived is disposed of with direction to the official respondents to take strict action against illegal mining of Reti/ Bajri and limestone in District

Jamshoro at different times near Loni Kot, Nooriabad and Sann Nadi and submit compliance report to this Court.

5. Let a copy of this order be communicated to Chief Secretary, Government of Sindh, Secretary Mines & Minerals department, government of Sindh, DIGP Hyderabad and SSP Jamshoro for information and compliance.

JUDGE

JUDGE

Karar_hussain/PS*