

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

**C.P. No.D-31 of 2019.**

**Present:**

**Mr. Justice Muhammad Iqbal Kalhoro**

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

Muhammad Ramzan ----- Petitioner

VERSUS

Province of Sindh  
& others ----- Respondents

**Date of decision: 13.03.2019**

Mr. Farhan Ahmed Bozdar, Advocate for the petitioner.

**ORDER**

**ADNAN-UL-KARIM MEMON, J.-** Through instant petition, the petitioner has prayed for constitution of Joint Investigation Team (JIT) for holding inquiry/investigation in the matter of burning of record of Town Committee, Khipro.

2. Brief facts of the case are that in the year 2013, defunct Taluka Municipal Administration Khipro now Town Committee Khipro published various contracts of construction work, and the petitioner submitted his tenders papers for obtaining contract and on opening of tenders the petitioner was awarded with six contracts amounting to Rs.566,870/-; that after completion of above work and verification from concerned authorities the petitioner approached the respondent No.7 & 8 for his due amount but more than two years have been passed after submitting the required documents for payment of above contracts, respondents No.7 & 8 have failed to pay the amount; that the petitioner filed civil suit and during course of evidence before learned trial Court respondents No.7 & 8 while leading evidence

brought on record a letter dated 30.07.2014 produced through TMO Khipro and NC report No.13 dated 30.07.2014 through WHC P.S. Khipro showing that the record of Town Committee Khipro had been burnt. He being aggrieved by as filed the instant petition for recovery of his due amount owed by the respondents.

3. Upon query by this Court as to how the instant Petition is maintainable against the recovery of amount. Mr. Farhan Ahmed Bozdar, learned counsel for the petitioner has argued the respondents No.7 & 8 are avoiding to pay due amount of the petitioner and are concealing their corruption; that matter needs complete inquiry through respondents No.11 to 13. Lastly, he prayed for allowing of this petition.

4. We have heard learned Counsel for the petitioner and perused material available on the record. It seems proper here at this juncture to mention that the contractual rights, commitments, undertakings and obligations have to be enforced through Courts of ordinary jurisdiction which should not be interfered with by this court while exercising its Constitutional jurisdiction especially in those matters arising out of contractual obligations. In such like eventualities the normal remedy to law being a suit for enforcement of contractual rights and obligations would be availed instead of invocation of Article 199 of the Constitution merely for the purpose of enforcing contractual obligations. In our view this court cannot go in deep investigation of disputed question of fact which necessitate taking of evidence. This can more appropriately be done in the ordinary civil procedure by filing a suit. This extraordinary jurisdiction is intended primarily, for providing an expeditious remedy in a case where the illegality of the impugned action of an executive or other authority can be established without any elaborate enquiry into complicated or disputed facts. Controverted questions of fact,

adjudication on which is possible only after obtaining all types of evidence in power and possession of parties can be determined only by courts having plenary jurisdiction in matter and on such ground constitutional petition is incompetent.

5. In view of hereinabove facts and circumstances of the instant case and after having come to the conclusion that instant petition being misconceived in facts and law, is not maintainable under Article 199 of the Constitution of Pakistan, 1973. Consequently, the instant Petition stands dismissed in *limine* alongwith listed applications. However, the Petitioner may avail appropriate remedy as provided to him under the law.

JUDGE

JUDGE

Irfan Ali