

ORDER SHEET
HIGH COURT OF SINDH, KARACHI

C.P. No.D-5929 of 2018

Date	Order with signature of Judge
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Present

Mr. Justice Muhammad Ali Mazhar.

Mr. Justice Agha Faisal.

Muhammad Aslam & othersPetitioners

Versus

Government of Sindh & others.....Respondents

Date of hearing 24.04.2019

Mr. Aftab Ali advocate for the petitioners.

Mr. Muhammad Mansoor Mir advocate for the respondent No. 4 & 5.

Mr. Jawwad Dero, Addl. A.G.

Sahib Ali Shah, (Authorized Officer), Law Officer, Directorate General, Mines & Minerals Department, Government of Sindh.

Ghulam Rasool Deputy Director, Directorate General, Mines & Minerals Department, Government of Sindh

Muhammad Ali Mazhar, J: On previous date, learned counsel for the respondent No. 4 & 5 had argued that the issue raised by the petitioners in this petition has already been dealt with and decided by the learned division bench of this court, thereafter, the order was challenged in the Apex Court but the hon'ble Supreme Court maintained the order passed by the learned division bench of this court. He had further argued that similar issue has also been raised in the civil suit so he requested for time to place on record all these documents through statement. On 06.03.2018 learned

counsel for the respondent No. 4 & 5 filed statement. The first document is C.P. No.D-412/2018 filed by Habib son of Bhora. Learned counsel for the respondent No. 4 & 5 argued that Habib and Sabir (petitioner No.6) in this petition are real brothers. Learned counsel for the petitioners has not denied this fact. The C.P. was dismissed by the learned division bench of this court on 31.01.2018 with cost. This order was challenged in the Supreme Court and vide order dated 11.07.2018 the hon'ble Supreme Court was pleased to dismiss the Civil Petition No. 110-K of 2018 in the following terms:-

“-----Respondents were proceeded with under the Sindh Mining Concession Rules, 2002 whereby the mining permits were cancelled which was appealed unsuccessfully, however, on a subsequent application under the Sindh Mining Concession Rule, 2002 the same was restored against which the petitioner claims to be aggrieved.

2. Petitioner is a public spirited person representing villagers and according to him mining activity is polluting the surrounding and environment is adversely affecting their livelihood. It may observe that it may be a case for the Environmental Protection Agency in the Region and prima facie not under the Mining Concessions Rules, 2002 noted above. Therefore, no exception to the judgment impugned is called for. If at all petitioner is aggrieved of the activity of the respondent he may avail the remedy as provided under the law. Petition is dismissed.”

2. Learned counsel also referred to page No. 53 of the statement which is a copy of plaint in civil suit No. 310 of 2018 filed by Muhammad Saleem son of Ali Muhammad. At this juncture, learned counsel invited our attention that Muhammad Saleem is also attorney of present petitioners in this petition which fact has again not denied by the petitioners' counsel.

3. In para-8 of the petition, the petitioners have taken a plea that the private respondents are using dynamic and

heavy machinery for digging the mines and minerals due to this environmental issues/pollution, the residents of the area are facing health problems.

4. In fact this is a crux of this petition which has already been considered and taken care of by the hon'ble Supreme Court in the order dated 11.07.2018 while dismissing the petition, the Apex Court clearly observed that the petitioner may avail the remedy as provided under the law. So for all intent and purpose the remedy lies with the Environmental Protection Agency and the hierarchy provided under the Sindh Environmental Protection Act, 2014 where the petitioners may approach and file appropriate application in accordance with law. Petition is disposed of accordingly.

JUDGE

JUDGE