

**IN THE HIGH COURT OF SINDH, BENCH AT
SUKKUR**

Constitutional Petition No. D- 954 of 2015

Petitioners: **Haji & others** through Mr. Ubedullah K. Ghoto, Advocate.

Respondents: **Federation of Pakistan & Others**
Mr. Jamshed Ahmed Faiz, Assistant Attorney General; Mr. Dareshani Ali Hyder, Advocate, a/w Akhlaq Nabi, Project Director NHA; Mr. Shahryar Imdad Awan, AAG a/w Insaf Ali, Mukhtiarkar Ghotki and Muhammad Hanif Pirzada, Deputy Director (Land), Ghotki

Constitutional Petition No. D- 1342 of 2017

Petitioners: **Sajjad Hussain Shah & Others** through Mr. Achar Khan Gabole, Advocate.

Respondents: **Federation of Pakistan & Others**
Mr. Jamshed Ahmed Faiz, Assistant Attorney General; Mr. Dareshani Ali Hyder, Advocate, a/w Akhlaq Nabi, Project Director NHA; Mr. Shahryar Imdad Awan, AAG a/w Insaf Ali, Mukhtiarkar Ghotki and Muhammad Hanif Pirzada, Deputy Director (Land), Ghotki

Date of hearing: 07.09.2017

Present:- Zulfiqar Ahmad Khan & Yousuf Ali Sayeed, JJ

JUDGMENT

YOUSUF ALI SAYEED, J:- The captioned Petitions are directed against the construction of a section of the Karachi-Lahore Motorway near Ghotki, which, as per the Petitioners, is planned so as to traverse their lands, bearing the description/survey numbers mentioned in the respective petitions, and seek directions as against the respondents that the alignment of the motorway not be directed along such a trajectory.

2. Learned counsel for the respective Petitioners alleged that they are the owners of the land likely to be affected and hinged their arguments on the comments initially filed on 06.05.2015 on behalf of the Respondents Nos. 2 to 10 under the caption “Introduction of Karachi-Lahore Motorway (KLM) Project”, wherein it is mentioned that three alignments were being considered for construction of the Motorway. These alignments, as shown through Google maps, were alignment Option-0 shown as a white line, alignment Option-1 represented as a red line, and alignment Option-2 depicted through a green line. In the aforesaid comments, it was submitted that Option-1 (i.e. the red line) was the shortest, most direct and most economical alignment. On this basis, learned counsel for the Petitioners contended that the Respondents be directed to adopt and abide by Option-1 and construct in accordance therewith, especially as such option would not necessitate the acquisition of the Petitioner’s lands.

3. The learned D.A.G, assisted by the representative of the National Highway Authority, strongly opposed the contentions of the Petitioners on merit and also questioned the maintainability of the Petitions. It was pointed out that detailed comments had subsequently been filed on behalf of the Respondents, and with reference thereto he submitted that the earlier comments only indicated the notional position based solely on satellite imagery, which had subsequently been revised when the various options had been examined in terms of ground realities, and thereafter the path was suitably adjusted according to the terrain, as well as natural and structural obstacles that hitherto had not been factored in. As such, Option-2, as being implemented, was but an adjustment of Option-1.

4. It was submitted by the learned DAG that the National Highway Authority had approved the recommendations that had thus been forthcoming from M/s China State Construction and Engineering Corporation, the firm executing the motorway project, which had chosen alignment option-2 after due reappraisal, having found the same to be the most feasible option from an operational and cost standpoint. It was further submitted that, accordingly, NHA had already commenced the process of acquisition of land in terms of the applicable procedure under the Land Acquisition Act 1894, of which a substantial stretch had already been acquired as per Option-2. It was also pointed out that vide a Corrigendum dated 29.01.2016 published in the Sindh Government Gazette on 01.02.2016 in supersession of earlier Notification under S.4 of the Act published on 12.08.2014, proceedings towards lawful acquisition of the land said to belong to the Petitioners had commenced, and that resiling at this juncture from Option-2 so as accommodate the Petitioners by realigning the small stretch of motorway (approximately 2.5 kilometers) that would otherwise run through their land would necessitate further realignment of a 5 kilometer stretch already under development, which would result in substantial loss to the exchequer.

5. Upon consideration of the matter, in the context of the line of argument taken by the Petitioners it merits consideration at the outset that the petitions do not even purport to have been filed in the public interest, and it is apparent from the face thereof that the Petitioners have prayed for relief from their personal standpoint. Even otherwise, it appears that the process of acquisition of land for the purpose of the motorway is being carried out in accordance with the statutory procedure stipulated in that regard in terms of the Land Acquisition Act, and we are of the opinion that the Petitioners have been unable to demonstrate that the acts

being carried out in perpetuation of this public project are either ultra vires the said enactment or otherwise contrary to law. Thus, the Petitioners have failed to make out a case of violation of their fundamental right to property, as enshrined in Articles 4 and 42 of the Constitution, so as to be able to effectively maintain a writ under the jurisdiction of this Court under Article 199.

6. The Land Acquisition Act itself provides a complete mechanism for redressal of grievances on the part of affectees as well as those who may be potentially aggrieved, and, needless to say, the Petitioners are at liberty to exercise their right to avail the remedies set out therein for redressal of their grievances, if any, as to the envisaged acquisition of the land to which they claim ownership.
7. Accordingly, the captioned Petitions are dismissed, with no order as to costs.

JUDGE

JUDGE

Sukkur

Dated _____