

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

CP No. D- 262 of 2018

DATE	ORDER WITH SIGNATURE OF JUDGE
12.09.2018	

Present :

Mr. Justice Abdul Maalik Gaddi,
Mr. Justice Muhammad Karim Khan Agha

For orders on office objection
For orders on MA 1356/18
For katcha peshi
For hearing of MA 1357/18

Mrs. Razia Ali Zaman, advocate for petitioners

Mr. Muhammad Ismail Bhutto, Addl.A.G along with Insp. Manzoor Ali on
behalf of DIGP Hyderabad and Inspector Ali Asghar SHO Oderolal Village

ABDUL MAALIK GADDI, J.- Through this petition, the petitioners have prayed
for the following relief(s):-

- (a) That this Honourable Court may be pleased to issue direction to respondent Nos. 3 and 7 to perform their duties honestly without any favouritism and provide legal protection to the lives of the petitioners and their family members their properties viz. Agricultural land by providing safety to the safe arrival of petitioners at their lands against the highhandedness of respondent Nos. 8 to 11.
- (b) That this Honourable Court may placed to issue directions to respondent No. 3 i.e. SSP Matiari to bring the old path going towards the land of petitioners to its original position by removing the hindrances of respondent Nos. 8 to 11.
- (c) That this Honourable Court may be pleased to appoint any GOD fear and honest and impartial officer look into the matter of path going towards land of petitioners closed by respondent Nos. 8 to 11 and submit report before this Honourable Court and in the light of that report this Honourable Court pass any appropriate orders, as petitioners are ready to bear the expenses.
- (d) That this Honourable Court may be pleased to issue direction to respondent No.7 i.e. SHO PS Oderolal not to issue threats to the petitioners and their families (male) members for police encounter and fake cases or any other kind of harassment by misusing his power and position.

- (e) This Honourable Court may be pleased to issue direction to respondent Nos. 4 to 6 to remove all kind of hindrances towards the smooth flow of water Nali passing in the land of petitioners from watercourse 15-L Khabrani Minor Nusrat Division Rohri Canal.
- (f) That this Honourable Court may be pleased to issue direction to private respondent Nos. 8 to 11 to furnish statements that they will not take law in their hands by creating unlawful hindrance in the old path going towards the land of petitioner and in the process of supply of produce at Market and will not dismantle or divert the water Nali passing from the land of petitioners towards their land on the show of weapons.
- (g) Any other relief which the Honourable Court deems fit and proper in view of the above fact for protection of petitioners and in the interest of justice.

The case and claim of the petitioners is that, the petitioners are small landlord and also having agricultural land admeasuring about 5-14 in Survey No. 182, Deh Oderolal Taluka and District Matiari vide sale deed dated 26.12.1975 along with peaceful possession and cultivating the same and the said land of the petitioners is being irrigated from peach of watercourse 15-L Khabrani Minor Nusrat Division Rohri Canal. On the contrary the private respondent Nos. 8 to 11 are big landlords, therefore, they on the force of weapons and in league with the official respondents have illegally and unlawfully diverted the waterline / water Nali passing from the lands of the petitioners towards their lands and in this regard the cases are pending between them in different courts of law.

Learned A.A.G. has filed comments of respondent Nos. 2, 3 & 7 which are already available on record. In the `comments` it is stated that both the parties are in litigation with regard to agricultural land and supply of water.

Today, Mr. Shakeel Ahmed Zai, advocate files power on behalf of respondent No.8 but he has not filed any reply to this petition; however, he submits that the case and claim of the petitioners is false and the parties are already in litigation in different courts of law with regard to establishment of their rights, therefore, this petition may be dismissed.

We have heard learned counsel for the parties at considered considerable length and have gone through the case file minutely. We have also gone through the contents of memo of petition as well as objection filed by the parties. Perusal of record shows that both the parties have dispute over agricultural land and this fact also find support from the report of concerned SHO. It appears that the present

petitioners want to convert the civil dispute into a criminal case. It may be mentioned here that the no time of alleged incident is mentioned in the memo of petition and the petitioners have also failed to disclose the actual words of threat allegedly uttered by the private respondents. Perusal of the case file also reveals that actual dispute between the parties is of civil nature as such the question of disputed facts with regard to agricultural land or the establishment of the rights of the parties could not be resolved through this constitutional petition; therefore under the circumstances, the petitioners are directed to approach the proper forum for redressal of their grievances. However, so far the prayer for providing protection is concerned, SHO PS Oderolal Village district Matiari is directed to see that no law and order situation is created between the parties and provide legal protection to the petitioners in accordance with law as and when they approach him.

This constitutional petitions was dismissed today in open court after hearing the learned counsel for the parties by short order and the above are the detailed reasons for the same.

JUDGE

JUDGE

karar_hussain/PS*