

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Suit No. 1153 of 2010

Suit No. 1793 of 2010

Order with signature of Judge(s)

02.10.2018

None present for the Plaintiff.

Mr. Muhammad Amin, Advocate for Defendant No.5

Mr. Parvez Ahmed Mastoi, AAG

Mr. Akhtar Ali, Advocate for Land Utilization Department

Mr. Asim Memon, Advocate holds brief for Mr. Naveed Ahmed Khan,
Advocate for Intervenor

None present for the Plaintiff, who was given last opportunity on 18.09.2018 with observation if no satisfactory response is available or the counsel keeps away from the Court the suit may be dismissed on account of maintainability. This suit was filed for declaration, permanent injunction and cancellation, Plaintiff claiming that he had been granted 12 acres land for graveyard in Sector 45, Scheme No.33, Karachi solely relying on a note of the then Chief Minister "*please allot 22 acres of land for graveyard*". However, said 22 acres were not granted but land admeasuring 10 acres was granted through Deh Dozan Form No.2 dated 02.11.1995, whereafter a further claim was made for additional 4 acres for graveyard purposes. This Court through its order dated 10.12.2015 held as under:-

"Orders dated 10.2.2014 and 11.2.2014 are as under:-

10.2.2014

Mr. Moulvi Iqbal Haider, learned counsel for the plaintiff has failed to show NOC of the KDA in respect of the land. He is directed to satisfy this Court regarding maintainability of the suit. The Government land cannot be transferred on the basis of few letters issued by the different offices. Adjourned to tomorrow i.e., 11.2.2014.

11.2.2014

Learned counsel for the plaintiff is directed to satisfy the Court that under what authority Chief Minister is empowered to allot 22 acres of land to anyone without showing any transparency and any enabling rules for such allotment. He is directed to come prepared with relevant rules and regulations for disposal of Government land by the Chief Minister. He is further directed to satisfy the Court as to what is the limitation for filing this suit for getting a declaratory decree of ownership on the basis of

mere recommendation letter issued some time in 1990, 1991 and 1993 etc., against the State.
To come up on 14.2.2014.

Learned counsel for defendant No.5 contends that the plaintiff is claiming entitlement of four Acres land which is not part of graveyard. Accordingly, learned Commissioner Karachi shall conduct probe with regard to allotment in favour of the plaintiff and submit detailed report of present status and legal character of the suit property. In case, there is any violation in Land Grant Policy, learned Commissioner Karachi shall proceed within the direction of Apex Court in suo-moto Case No. 16/2011.

This exercise shall be completed within one month with compliance report. Office shall convey this order to the learned Commissioner Karachi.
To come up on 19.1.2016.”

Whereafter, a report was called from the learned Commissioner, Karachi, who was directed to conduct probe with regard to the allotment in favour of the Plaintiff. A perusal of the file shows that that report was made under cover of letter dated 02.09.2016, whose recommendations are available at page 9 to 10 of the said report, which is reproduced as under:-

“In view of the above findings and legal position it crystal clear the land in question is purely State Land of Naclass of Deh Doozan and on the basis of fake and managed entries inserted in record of Rights; the claims of individuals are null & void, bogus and without any title and ownership rights all the bogus, & manipulated entries are liable to be cancelled under the provision of section 164 of Sindh Land Revenue Act 1967 and sub-ordinate Revenue functionaries to be directed to take possession of precious State Land from Land grabbers, such proceedings have also been initiated by undersigned. All the parties in the instant case did not come to the Court with the clear hands and their claims are baseless and unjustified. Under section 36 of the Sindh Colonization of Government Lands Act 1912 the jurisdiction of the civil Court is barred, therefore the instant Suit is no maintainable and to be dismissed in the interest of justice.”

Learned AAG as well as counsel for the Land Utilization Department state that the entry made in the record pertaining to the allotment made to the Plaintiff was bogus, manipulated and no land was granted to him, which fact could be ascertained from the recommendations of the Commissioner. Learned AAG further draws Court’s attention to Page 143, in terms of which earlier granted 10 acres was cancelled on account of violation as no such (graveyard) use of land was made in the last 16 years.

This case since its inception has been posed with the challenge as to the very maintainability and the counsel was called upon time and again to satisfy this Court. None is present, as indicated above. Learned AAG submits that in these circumstances to avoid any further waste of Court's valuable time, the suit be dismissed as devoid of any merit. As evidently, the Plaintiff has shown no evidence to prove his title to the subject land and the earlier land granted to him for graveyard also stood cancelled, thus no question of any further allotment of 4 acres for graveyard purposes sustains.

In these circumstances, the suits being meritless are dismissed alongwith all pending applications.

JUDGE