

# IN THE HIGH COURT OF SINDH AT KARACHI

Present:  
**Muhammad Junaid Ghaffar, J.**  
**Agha Faisal, J.**

CP D 1149 of 2021 : Muhammad Bachal Baran vs.  
Province of Sindh & Others

For the Petitioner : Mr. Raham Ali Rind, Advocate

Date of hearing : 16.02.2021

Date of announcement : 16.02.2021

## JUDGMENT

**Agha Faisal, J.** The petitioner claims illegal dispossession from private property; seeks removal of purported encroachment upon public property; requires this Court to enter into a fact finding exercise to determine title with respect to village land; and prays for prosecution of private respondents.

2. At the very onset the petitioner's counsel was required to address the Court with respect to the maintainability of the petition. Learned counsel admitted that the petitioner had not initiated any appropriate proceedings with respect to the alleged dispossession. No response was also articulated to justify as to how he was aggrieved by any purported encroachment upon land admittedly not belonging thereto.

3. The petitioner has recourse in respect of any illegal dispossession from property, *inter alia* vide recourse to the Illegal Dispossession Act 2005; hence, no case for exercise of jurisdiction is made out in such regard.

4. The petition, and the documentation filed therewith, is devoid of any cogent substantiation to suggest that there is any encroachment upon state land or that there is any illegal activity taking place thereupon. The State is duly empowered to take remedial measures if its property is being misappropriated, including by recourse to the Sindh Public Property (Removal of Encroachment) Act 2010; however, and nothing has been placed on record to demonstrate if the State is aggrieved at all. In such regard it is apparent that the counsel was unable to demonstrate the *locus standi* of the petitioner to maintain the claim<sup>1</sup>.

---

<sup>1</sup> *Raja Muhammad Nadeem vs. The State* reported as PLD 2020 Supreme Court 282; *SECP vs. East West Insurance Company* reported as 2019 SCMR 532.

5. In so far as the prayer for protection is concerned it is settled law that such a grievance ought not to be agitated before the High Court without having exhausted recourse before the relevant fora<sup>2</sup>. There is no constituent of the pleadings to denote if the grievance was escalated before the concerned officials / fora prior to institution hereof and no such argument was articulated before us. Even otherwise seeking sanctions against private persons in writ jurisdiction cannot be appreciated.

6. It is noted that the primary grievance appears to be against private respondents and the official respondents seem to have been impleaded to seek the adjudication of the grievance before this court, in the exercise of its writ jurisdiction. A Division Bench of this High Court, in *Muhammad Saddiq case*<sup>3</sup>, had deprecated the invocation of the writ jurisdiction in private disputes and had held that such action, merely to overcome objections of the branch with respect to maintainability, cannot but be disapproved. A subsequent Division Bench has also maintained<sup>4</sup> that the masquerade of pleadings to invoke the Constitutional jurisdiction of this court is undesirable.

7. In view of the reasoning and rationale herein contained, we are of the considered view that the petitioner's counsel has failed to set forth a case for the exercise of extra ordinary Constitutional jurisdiction by this Court, hence, this petition was dismissed vide short order announced in Court earlier today. These are the reasons for our short order.

JUDGE

JUDGE

---

<sup>2</sup> Per Ejaz Afzal Khan J in *Younis Abbas & Others vs. Additional Sessions Judge, Chakwal & Others* reported as *PLD 2016 Supreme Court 581*; Per Nadeem Akhtar J. in *Abdul Hameed & Another vs. Province of Sindh & Others* reported as *PLD 2019 Sindh 168*.

<sup>3</sup> *Muhammad Saddiq & Another vs. Ruqaya Khanum & Others* reported as *PLD 2001 Karachi 60*.

<sup>4</sup> *AKD Investment Management Limited & Others vs. JS Investments Limited & Others* reported as *2020 CLD 596*.