

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD
C.P.No.D-1975 of 2019

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection
2. For hearing of main case.

05.09.2019.

Mr. Wishan Das Kolhi, advocate for petitioner.
Mr. Muhammad Ismail Bhutto, Additional Advocate General.
Respondents No.8 and 11 in person.
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The petitioner by way of instant constitutional petition has prayed
for the following relief;

- a. That this Honourable Court may be pleased to recalled the letter dated 24.07.2019 issued by the respondent No.7 to the Deputy Commissioner Mirpurkhas regarding encroachment/dispossession from the petitioner and his family members from the Temple and house.
 - b. That this Honourable Court also declare that the act of the respondent No.7 regarding sending notice/letter dated 24.07.2019 to Deputy Commissioner Mirpurkhas is also illegal, void, abinitio and not according to law.
 - c. That this Honourable Court also declare the act of the respondents No.2 to 6 to visit the house and temple of the petitioner and tried to dispossess the petitioner and his family on the behest of letter/notice issued by the respondent No.7 is purely illegal, unlawful, void, abinitio, unwarranted and against the principal of natural justice.
 - d. Any other appropriate relief which this Honourable Court may deems fit and proper may be awarded to the petitioner.
2. As per petitioner his uncle Shagan Mehraj constructed a temple and house and same after his death is being managed by him as a sole surviving legal heirs of Shagan Mehraj. The civil suit filed by the private respondents in respect of above said temple and house, before the Court of learned Senior Civil Judge has been dismissed, however, appeal

so preferred against the dismissal of such suit is pending adjudication before learned District Judge, Mirpurkhas. The private respondents now are attempting to dispossess him from the above said temple and house and they have got served him with a notice in that respect by Pakistan Hindu Council. In these circumstances, the petitioner has maintained the instant constitutional petition before this Court for the relief, which is detailed above.

3. Learned A.A.G has filed comments on behalf of the respondents No.3, 5 and 6 inter-alia submitting therein that; there is dispute of ownership and maintenance between the parties over of temple and house.

4. It is contended by learned counsel for the petitioner that the notice has been issued against the petitioner by Pakistan Hindu Council without any lawful authority with intention to dispossess the petitioner from temple and house. By contending so, he sought for declaration to the effect that the notice so issued against the petitioner by Pakistan Hindu Council is void, abinitio and illegal.

5. Learned A.A.G and private respondents No.8 and 11 in person have sought for dismissal of the instant constitutional petition by contending that it has been filed by the petitioner with ulterior motive to usurp the temple and property attached to it.

6. We have considered the above arguments and perused the record.

7. If, it is believed that the actual owner of the temple and house was the uncle of the petitioner and the petitioner has inherited the ownership and possession whereof by way of inheritance, then the petitioner has to prove such facts by filing a civil suit before the civil Court having jurisdiction simply for the reason that such controversy could only be resolved after recording of evidence. If, for the sake of arguments, it is believed that the notice which is issued against the petitioner by Pakistan Hindu Council is illegal, then such declaration could also be sought for by the petitioner in his civil suit as a consequential relief, if so is advised to him as a consequential relief.

8. The petitioner has failed to make out a case for infringement of his right or establish malafide on the part of the respondents, which is sufficient for dismissal of instant constitutional petition, it is dismissed accordingly with no order as to costs.

JUDGE

JUDGE