



3. The respondent by defending the impugned order sought for dismissal of the instant petition by contending that learned Sessions Judge has put an attempt to enforce the fundamental rights of the public at large.

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

5. As per Article 175(2) of the Constitution of Islamic Republic of Pakistan, no Court shall have any jurisdiction save as is or may be conferred on it by the constitution or by or under any law. Nothing has been brought on record, which may suggest that learned Sessions Judge was conferred by the constitution or by any law any jurisdiction to be exercised by him. In that situation, it is rightly being contended by learned counsel for the petitioners that the impugned order having been passed by learned Sessions Judge in excess of jurisdiction is illegal. If for the sake of arguments, it is believed that learned Sessions Judge was having a jurisdiction to pass the impugned order even then the prayer made by the private respondent ought not to have been granted for want of Provincial Government as proper and necessary party simply for the reason that the construction and repair of the work is the function of the Provincial Government and not that of its functionaries. Consequently, the impugned order is set-aside.

6. Instant constitution petition is disposed of accordingly alongwith listed application.

JUDGE

JUDGE