

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD  
C.P.No.D-609 of 2010

DATE	ORDER WITH SIGNATURE OF JUDGE
------	-------------------------------

1. For hearing of MA-3258/10
2. For orders on MA-3916/11
3. For hearing of MA-5615/12
4. For orders on MA-3242/17
5. For hearing of main case.

**30.09.2019.**

Mr. Zafar Iqbal Seenharo, advocate for petitioners.  
Mr. Sunder Das, advocate for respondent No.6  
Mr. Muhammad Ayoub Qassar, advocate for intervener(s)  
Mr. Muhammad Ismail Bhutto, Additional Advocate General.  
Mr. Zulfiqar Ali Rajput, Assistant Attorney General.  
=

The petitioners by way of instant constitutional petition have  
prayed for declaration as under;

- a) To declare that petitioners are sitting tenants/Haris of S.Nos. 130, 133, 134, 137, 138, 139, 140, 141, 142, 213, 249 total admeasuring about (50-07 Acres) of Deh Sarhadi Taluka Badin and is available for disposal vide Order dated 01.07.2008 of respondent No.3 and respondent No.5 are bound under law to put land in schedule for disposal and petitioners are entitled for grant of the same.
- b) Direct the respondent No.5 to perform his duties and comply with order dated 01.07.2008 of respondent No.3 dispose off S.Nos. 130, 133, 134, 137, 138, 139, 140, 141, 142, 213, 249 total admeasuring about (50-07 Acres) of Deh Sarhadi Taluka Badin to setting tenants/Haris as per Government policy.
- c) The respondent be directed to issue fresh allotment and ownership rights/Malkana Haq in respect of suit land to the petitioners according to law as envisaged in Para No.16 & 17, 18 and policy in vogue. As per order dated 01.07.2008 of DLC Badin (Respondent No.3).
- d) That the cost of the petition may be born by the respondents.
- e) That any other relief deemed just and proper be granted to the petitioners.

2. The facts in brief necessary for disposal of instant constitutional petition as per petitioners are that the subject land was resumed from Khata of Mst. Ayesha Begum under MLR-115 of the Land Reform Regulation 1972. The petitioners claiming to be Hari over said land since forefathers filed the instant constitutional petition and have prayed for declaration as detailed above.

3. The respondents in their para wise comments have inter-alia stated that no claim in favour of Mst. Ayesha Begum in respect of subject land was entered in record of right. It was found to be in “Khata” of claimant Muhammad Naeem. It was cancelled by Senior Member Federal Land Commission Islamabad and presently it stands in the name of Sindh Land Commission. The petitioners have occupied the government land illegally and it now has come within local limits of Badin Town as such same cannot be disposed of on ‘Harap’ / ‘Zamindari’ / ‘Mohag’ basis.

4. It is contended by learned counsel for the petitioners that after resumption of the land the petitioners being sitting tenants are entitled to its grant under land Reforms Regulation 1972. By contending so, he sought for direction against the concerned functionaries of the Province of Sindh to make such grant in favour of the petitioners.

5. It is contended by learned A.A.G and learned counsel for respondent No.6 that the controversy involved in this petition has already been resolved by Hon’ble Supreme Court of Pakistan while making disposal of Civil Appeals No.129-K/2010 and No.130-

K/2010. Consequent upon such orders of Hon'ble Supreme Court of Pakistan, the land has been mutated in name of University of Sindh Lar Campus at Badin, and construction work whereon is going on. By contending so, they produced the copy of order of Hon'ble Supreme Court of Pakistan and village Form-VII and then prayed for dismissal of instant constitutional petition.

6. It is contended by Mr. Muhammad Ayoub Qassar, advocate on behalf of intervener Mubarak Ali that his client was having interest over survey No.213 of Deh Sarhadi Taluka Badin, but such controversy has since been resolved by Hon'ble Supreme Court of Pakistan. By stating so, he supported the case of petitioners.

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

8. Admittedly, a constitutional petition (D-748 of 2009) filed by Juman alias Jumoon and five others was disposed of by this Court on 19.12.2009 with direction to public functionaries of Province of Sindh to allot the land to tenant in their possession in terms of MLR-115 of 1972 and then to acquire the same, if it is required for public purpose. Such order of this Court, on challenge was set-aside by Hon'ble Supreme Court of Pakistan with the observation that two rival claims of the tenants for grant of ownership in terms of Land Reforms Regulation 1972 cannot be determined by the High Court in exercise of its constitutional jurisdiction. Same is the position in the instant matter. No determination with regard to the status of the subject land being resumed or otherwise or that of the petitioners

being tenant over the subject land could be arrived at by this Court in exercise of its constitutional jurisdiction. What talk of its allotment in their favour most particularly when the possession of the subject land with change of 'Khatta' is claimed to have been taken over by the University of Sindh, Larr Campus Badin.

9. Based upon above discussion, the instant constitutional petition is dismissed along with pending applications.

JUDGE

JUDGE

Ahmed/Pa,