

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD  
C.P.No.D- 3356 of 2016

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DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection
2. For hearing of MA-17953/16
3. For hearing of main case.

**12.11.2019.**

Mrs. Razia Ali Zaman Khan, advocate for petitioner.  
Mr. Allah Bachayo Soomro, A.A.G.

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On receipt of notice dated 23.11.2016, issued by Mukhtiarkar Revenue, Matiari, on application of individuals, the petitioner has approached this Court by way of filing instant constitutional petition inter-alia praying therein that;

- (a) *That this Honourable Court may be pleased to issue direction to respondents No.2 and 3 i.e. SSP Matiari and SHO PS Matiari, to provide legal protection to the petitioner against the highhandedness of private respondents No.6 to 10, whenever requires by the petitioner.*
- (b) *That this Honourable Court may be pleased to issue direction to the respondents No.4 and 5 i.e. Mukhtiarkar Land Revenue Matiari and Assistant / Deputy Commissioner Matiari not to harass the petitioner by issuing illegal notice to petitioner on the best of private respondents with the prayer that there respondents be directed to restore the Kitcha track/path in its original position, some is encroached and demolished by the private respondents.*
- (c) *Any other relief which the Honourable Court deems fit and proper in view of the above fact for protection of petitioners and in the interest of justice.*

2. The official respondents in their parawise comments have inter-alia stated that there is dispute between the petitioner and his

opponents over the boundaries which needs to be demarcated with technical assistance of Director Settlement Survey and Land Record Sindh at Hyderabad.

3. It is contended by learned counsel for the petitioner that the petitioner has been harassed by the official respondents by serving with him an illegal notice and the private respondents have encroached upon Katcha track by demolishing it. By contending so, she sought for directions against the respondents to remove the encroachment from the track and restore it, as it was before encroachment and petitioner may not be harassed by anyone in any manner without due course of law.

4. Learned A.A.G has sought for dismissal of the instant constitutional petition by contending that there is dispute between the parties over encroachment, which is factual controversy and no factual controversy could be resolved by this Court in exercise of its constitutional jurisdiction under the garb of harassment.

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

6. Notice has been served upon the petitioner by Mukhtiarkar Revenue Matiari, on application of some individuals calling upon him to explain his position with regard to his encroachment over track. If, the petitioner carries the feeling that he has made no encroachment over the track, then he could explain his position before the Mukhtiarkar Revenue Matiari by filing his objections on application of those individuals. No such exercise was undertaken by the petitioner, for no obvious reason and he has straight away come

before this Court and has filed the instant constitutional petition under the garb of harassment seeking removal of the encroachment over the track. Issue of the encroachment over track, if any. Be that, it is made by the petitioner or by his opponents obviously being issue of facts could not be resolved by this Court in exercise of its constitutional jurisdiction under the garb of harassment.

7. Based upon above discussion, instant petition being misconceived is dismissed accordingly.

JUDGE

JUDGE

Ahmed/Pa,