

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI

C.P.No.905 of 2016

Before:  
Mr. Justice Muhammad Iqbal Kalhoro  
Mr. Justice Irshad Ali Shah

Mst. Hashmat Ara and another ..... Petitioner  
Versus  
P.O. Sindh and others. .... Respondents

Date of Hearing: 16.01.2020  
Date of Decision: 28.01.2020

Mr. Muhammad Irfan, advocate for petitioners.  
Mr. Mushtaque Ahmed Memon, advocate for respondent No.4.  
Mr. Muhammad Ali Jan, advocate for respondent No.7.  
Mr. Ali Haider Saleem, DPG.

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**ORDER**

**IRSHAD ALI SHAH, J:-** The petitioners by way of instant constitutional petition have mainly impugned order dated 12.02.2016, passed by learned Assistant Commissioner and Special Judicial Magistrate Gulshan-e-Iqbal District East Karachi, the operative part whereof reads as under;

“I, therefore, in the interest of public and in order to prevent imminent danger of loss of human lives and properties to maintain the law & order situation, do hereby order that the disputed portion/area of the property viz. *Plot No.GRE-140, Nishtar Road Garden East Karachi*, till further offers. The parties concerned are also directed to appear in person or by a pleader and submit their written statement(s) alongwith the clear title or ownership documents/papers, (if any) with regard to their respective claim / title over the above said property within fifteen days i.e. on 26.02.2016.”

2. It is contended by learned counsel for the petitioners that the petitioners are legal heirs of Mst.Allah Rakhi, who has been in possession of the subject plot since the days of partition, which was inherited by them and they have been dispossessed there from illegally by the respondents under the garb of impugned order, same being illegal is liable to be set aside with restoration of possession of the subject plot to the petitioners.

3. Learned counsel for the private respondents and learned AAG by rebutting the above contention have sought for dismissal of the instant constitutional petition by contending that it is competent and multiple litigation on civil side is going on between the parties.

4. In response to above, it is contended by learned counsel for the petitioners that the petitions of like nature have already been entertained by this court therefore, the petitioners could not be discriminated.

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

6. Admittedly, the multiple litigation on civil side is going on between the parties. There is no denial to the fact that the impugned order has been passed by learned Assistant Commissioner & Special Judicial Magistrate Gulshan-e-Iqbal District East, Karachi in exercise of his power u/s 145 (1) & (4) Cr.P.C. which is amenable to revision and not before this court by way of instant petition. If for the sake of arguments, it is believed that the instant petition is competent before this court even then no relief could be granted by this court to the petitioners simply for the reason there is nothing in the impugned order which may suggests that the subject plot has been attached or petitioners have been ordered to be dispossessed therefrom. By way of impugned orders the petitioners have simply been called upon to furnish their written reply for further orders in the subject proceedings, which is interim in nature and which petitioners can furnish adequately if they are advised so. Simultaneously the issue of dispossession and restoration of possession being factual in its nature could not be resolved by this court in exercise of its constitutional jurisdiction.

The instant petition being incompetent is dismissed accordingly.

JUDGE

JUDGE