ORDER SHEET IN THE HIGH COURT OF SINDH, KARACHI C.P. No.D-6329 of 2021

Date

Order with Signature(s) of Judge(s) _____

Fresh Case

- 1. For order on Misc. No.26918/2021.
- 2. For order on office objection No.18 & 26.
- 3. For order on Misc. No.26919/2021.
- 4. For order on Misc. No. 26920/2021.
- 5. For hearing of main case.

25.10.2021

Mr. Shah Muhammad Zaman Junejo, Advocate for petitioner

- 1. Urgent application is granted.
- 2. Deferred.
- 3. Exemption application is granted subject to all just exceptions.

4&5. Through instant petition, the petitioner seeks declaration that the land for the graveyard purpose in UC-No. 02, Muslimabad NA-238, Malir used for drainage and sewerage water purpose has converted into a DALDAL (swamp) and as per Islamic injunctions the dead bodies cannot buried in the drainage and sewerage water; hence, the same land is unfit for the graveyard purpose. He also seeks inter alia direction to respondents No.1, 2 and 5 to submit the official record regarding signboards affixed on 17.12.2021 with Sindh Government logo for construction of boundary wall for graveyard and direction to respondent No.1 to submit detailed report regarding projects handling letter, budget ADP Nos. detailed alongwith projects and funds approval letter, and fund release order, Tender Notice publication by SPPRA (respondent No.6) and Tender Allotment letter to construction company if any.

It is case of the petitioner that the said land was allotted to his father (to the extent of 06 acres) and his uncle Muhammad Ajan (to the extent of 15 acres) by the then Deputy Commissioner, Karachi-East, vide

orders No. REV/858/1984 &, REV/857/1984, respectively, both dated 13.08.1984, on 10 years lease for *Wahi Chai* cultivating purpose, and thereafter, the alleged lease of 10 years was extended for the next 30 years vide orders No. Rev/2018/92/Karachi & Rev/2017/92/Karachi, respectively, both dated 04.06.1992.

However, it is an admitted position that the alleged lease of the subject land in favour of petitioner's father and uncle on *Wahi Chai* cultivating purpose does not confer any title in their favour. It is also an admitted position that the father and the uncle of petitioner have already filed civil Suits bearing No.18/2021, 19/2021 and 30/2021 for permanent injunction, which are already pending adjudication before 1st Civil Judge & Judicial Magistrate, Karachi-Malir in respect of subject land. Since the dispute involved in this petition is already sub-judice before the Civil Court, this petition being not maintainable in law is dismissed in limine, with listed application.

JUDGE

JUDGE

Abrar