ORDER SHEET IN THE HIGH COURT OF SINDH, KARACHI C.P. No.D-1115 of 2021

Date

Order with Signature(s) of Judge(s)

Direction:

For order as to maintainability of petition.

18.11.2021

Mr. K. Jahangir, Advocate for petitioner.

Mr. Mubarak Ali Shah, Advocate for KDA.

Mr. Zulfiqar Ali Shaikh, Advocate for respondent

No.6&8.

Mr. Miran Muhammad Shah, Addl. A.G.

Learned counsel for the petitioner and respondent No.2 files statements which are taken on record.

Through instant petition, the petitioner seeks an order restraining the respondents No.3 and 6 to 9 from creating hindrance in carrying on construction over his land bearing Survey No.66, measuring 1.1 acre, situated at Gharo Town, Taluka Mirpur Sakro, District Thatta. The petitioner also seeks direction for respondents No.4, 5 & 10 to provide legal protection and take legal action against the respondents No.3, 6 to 9 for their illegal and unlawful acts.

It is alleged by the learned counsel for the petitioner that the petitioner is the lawful owner of the agricultural land by virtue of registered sale deed which land was later on converted into residential through Form-II issued by the office of the Mukhtiarkar, Taluka Mirpur Sakro. It is also alleged that the petitioner, in the year 2020, started work on his said land but the respondents No.6 to 9 restrained him from raising construction and demanded extortion money of Rs.5,00,000/-. On his refusal the respondent No.3 (House Officer, Anti-Encroachment Cell, District Thatta) demolished the boundary wall of the land.

Comments to the petition have been filed by the respondent No.8, which are taken on record, wherein he has stated that the petitioner is trying to encroach upon the land of respondent No.6.

As per his own contention, the alleged boundary wall of the petitioner was demolished by the respondent No.3 which shows apparently that the same was erected by him encroaching upon government land. If the petitioner claims that the land on which he is raising construction of wall is not the public property, he should approach to relevant Tribunal established under Section 12 of the Sindh Public Property (Removal of Encroachment) Act, 2010 and if he has any issue in respect of demarcation of his land, he may approach to Mukhtiarkar concerned for redressal of his grievances in terms of Rule 67-A of the Sindh Land Revenue Rules, 1968, otherwise for seeking restraining order as sought by the petitioner, the proper forum is the civil Court having jurisdiction to entertain such dispute. The said remedies are efficacious remedy for the redressal of the petitioner's grievance. This petition is; therefore, being not maintainable in law is dismissed alongwith pending application, if any.

JUDGE

JUDGE

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