

Order Sheet
**IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD**

CP No. D- 262 of 2012
R.A. No. 116 of 2002

BEFORE :

Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Adnan Iqbal Chaudhry

Date of hearing
& decision:

02.11.2021

Petitioner:

Muhammad Juman in CP No. D- 262 of 2012
through Mr. Muhammad Murtaza A. Arab,
Advocate.

Respondents:

through Mr. Imdad Ali R. Unar, Advocate

Mr. Ashfaq Nabi Qazi, Assistant Attorney General
Mr. Rafiq Ahmed Dahri, Asstt: A.G.

ORDER

ADNAN-UL-KARIM MEMON, J:- Through this petition, the petitioner is seeking direction to respondents 1 and 2 to stop illegal construction of drainage system over the land of petitioner and same may be vacated to its original position.

2. Brief facts of the case are that the petitioner is the owner of survey No. 155, 156, 157 correspondent GLR No. 90, 91, and 93 of Cantonment Hyderabad measuring 10-20 acres situated in Deh old Sari Makan, Taluka Qasimabad district Hyderabad which is inherited by him from his late father Noor Muhammad; that Civil Revision No. 116 of 2002 (Re-Military Estate Officer v. Noor Muhammad through L.Rs) is already pending before this Court in respect of above property and stay is operating against respondents but despite that on 10.01.2012 respondents 2 to 4 along with Contractor and their labor came at the land of petitioner viz. survey No.155 measuring 5-10 acres, started demarcation & excavation of the land to construct drainage system without notice and permission of the petitioner, hence he has filed the instant petition.

3. Upon notice respondent No.3 Military Estate Officer Hyderabad Circle has filed para wise comments.

4. In the comments it is stated that GLR survey Nos. 93, 94, and 95 (corresponding survey Nos. 155, 156, and 157) is defense land classified B-4 measuring 10-20 acres situated in Hyderabad Cantt. It is further stated that no demarcation was carried out by him with the collaboration of revenue authorities. The land in question is defense land and the government of Sindh has started construction work without any prior permission of this office and respondents 3 and 4 have not issued any permission/NOC to the government of Sindh for carrying out development work during pendency of Revision Application No. 116 of 2002; he denied to have trespassed the land and as stated above the land in question is defense land classified B-4 under the management of defense Department.

5. We have heard the learned counsel for the parties and perused the material available on record.

6. In principle the petitioner through the instant petition is seeking direction to respondent Nos. 1 & 2 to stop illegal construction of drainage system over the land of petitioner and the same needs to be restored to its original position. At this stage we have been informed that civil litigation between the parties ended and culminated into the Revision Application No. 116 of 2002 pending adjudication before the learned Single Judge of this Court and the said matter is yet to be decided.

7. We are of the considered view that since Revision Application No. 116 of 2002 is pending adjudication before the parties as such no conclusive finding could be given in the present petition, hence the same is dismissed without prejudice the rights of the parties pending adjudication in Revision Application No. 116 of 2002 which shall be decided in accordance with law. Office is directed to de-tag the Revision Application No. 116 of 2002 and the same be fixed according to roster.

JUDGE

JUDGE