

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

CP No. D- 1025of 2021

BEFORE:

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

Date of hearing
& decision:

24.11.2021

Petitioner:

Jaman Khyber and another through Mr.
Aghis-u-Salam Tahirzada, Advocate

Respondents:

Mr. Jehangir Khyber, Advocate

ORDER

ADNAN-UL-KARIM MEMON, J: -The petitioner being aggrieved and dis-satisfied with the impugned Judgment dated 29.5.2021 passed by learned Anti-Encroachment Tribunal Hyderabad in Suit No. 05 of 2021 whereby the learned Judge while decreeing the above suit directed the Assistant Commissioner, Matiari and Mukhtiarkar (Revenue) Matiari to remove illegal encroachment made by petitioners, hence the petitioners have filed the instant petition.

2. Heard the learned counsel.

3. The encroachment ordered to be removed is cultivation over Bhada Land in front of S. Nos. 635, 67 & 59, land admeasuring 00-27 acres, now newly formed S. No. 650 area 00-29 acres, in Village Rasheed Khyber, Deh Khybrani, Taluka & District Matiari, hereinafter the suit land.

4. The question before the Tribunal was whether the suit land was qabuli land or public property inasmuch as it was being contended by the plaintiff (Jehangir Khyber)that the suit land had been sanctioned for constructing a link road for the benefit of Village Rasheed Khyber. To arrive at the finding that the suit land had been sanctioned for constructing a link road, hence public property, the learned Tribunal has relied on the

evidence brought by the Board of Revenue, including the following order dated 30-10-2004 passed by Member (Judicial), Board of Revenue Sindh in Review Case No. 41/1999:

“Heard the parties. Perusal of order No. 2972-75/13928/SB-IV dated 31/12/1975 reveals that the disputed land has not been allotted to any individual person but it has been sanctioned to the villagers of Rashid Khyber with the specific condition that the land will be utilized for the construction of link road. This order has been passed by the Government of Sindh in Land Utilization department and no appeal of revision lies against an order passed by the government under the Sindh Land Revenue Act 1967, it is directed that the order passed by the Government of Sindh and land utilization department (reproduced in para-2ante) should be implemented in its letter and spirit.”

5. Learned counsel for the petitioner has not been able to controvert the above evidence. In fact, he conceded before us that the petitioner does not hold title to the suit land. Therefore, there is no reason before us to interfere with the order passed by the Tribunal. The petition is dismissed.

JUDGE

JUDGE