

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D – 465 of 2019

Muhammad Mithal Shaikh v. Province of Sindh and others

Before:

Mr. Justice Muhammad Junaid Ghaffar
Mr. Justice Zulfiqar Ali Sangi

Date of hearing: **22-02-2022**

Date of decision: **22-02-2022**

Mr. Sheeraz Fazal, Advocate for the Petitioner.
Mr. Zulfiqar Ali Naich, Assistant Advocate General Sindh.

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J U D G M E N T

Muhammad Junaid Ghaffar, J. – Through this Petition, the Petitioner has sought the following prayers:

- a. *That this Honourable court may be pleased to direct the officials respondents to construct the road which was given of NIT No. EE/HW_D_TC/503 of 2017, Sukkur, dated: 04-12-2017, at serial No. 34 in its original position as it was published without changing any estimated plan without any further delay.*
- b. *That this Honourable court further may be pleased to direct the private respondent not to create any hindrances in the construction of the above said road word.*
- c. *To grant any other equitable relief which this Honourable Court may deem fit and proper under the circumstance of the case.*

2. Notice was ordered and comments have been filed; whereas, pursuant to the last order dated 18-01-2022, files of C. P. No. D-532 of 2018 and C. P. No. D-452 of 2019 have also been annexed by the office.

3. Perusal of the record reflects that one Abdul Manan had filed C. P. No. D-532 of 2018, wherein he had challenged the same NIT dated 04-12-2017 on the ground that the road through this NIT is being constructed on his land without passing of any Award and payment of compensation. The said petition was disposed of vide order dated 24-04-2016 in the following terms:

“Statement dated 24.04.2018 has been filed by respondent No.4 Assistant Commissioner / Land Acquisition Officer Pano Akil, which reads as under:

“The respondent No.4 (Assistant Commissioner / Land Acquisition Officer) Pano Akil beg to submit that as and when any acquiring agency sent / produced land plan and other relevant papers of acquired area for compensation the undersigned proceeding as per land acquisition act 1894. In this particular case no any department sent documents for the purpose as such there is no need of taking any further action so far this office is concerned. However as and when the required document produced by any acquiring agency further proceedings will be taken according to law.”

Respondent No.4 Assistant Commissioner / Land Acquisition Officer Pano Akil is present in person. He reiterates the contents of his above statement. Ahmed Saeed Siddiqui Assistant Engineer Roads Pano Akil is present on behalf of respondent No.2 Executive Engineer Highway Division Sukkur. He states that construction activity has not yet been started on the petitioner’s land and the same shall not be started by any of the respondents without strictly adhering to the due process of law. Learned counsel for the petitioner is satisfied with the statement filed by respondent No.4 and statement made by Ahmed Saeed Siddiqui AEN on behalf of respondent No.2, and seeks disposal of this petition in terms of above statements.

By consent, the petition and listed application stand disposed of in terms of above statements with no order as to costs.”

4. In view of the above, when the Court, in respect of another Petitioner, has already passed the above order, which impliedly means that the road is not to be constructed; whereas, even otherwise, the said Petitioner is in continuous litigation for protection of his land including F. C. Suit No.175 of 2018, we are of the view that the prayer sought in this Petition cannot be granted. Notwithstanding this, even otherwise, the same does not appear to be a case of any aggrieved person *stricto sensu*.

5. Accordingly, the Petition is misconceived and is hereby **dismissed**; whereas, office to consign this file (C. P. No. D-465 of 2019) and fix C. P. No. D-532 of 2018 and C. P. No. D-452 of 2019 separately on the next date.

J U D G E

J U D G E

Abdul Basit