

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

Cr. Misc. Appl. No. S- 170 of 2012

DATE	ORDER WITH SIGNATURE OF JUDGE
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21.02.2022

For hearing of MA 1514/22

Mr. Nazeer Hussain Bhatti, Advocate for applicant
Mr. Fayaz Hussain Sabki, A.P.G.

ORDER

SHAMSUDDIN ABBASI, J.- Applicant Waliullah Panhwar has impugned the order dated 1.3.2012 passed by learned IInd Additional District & Sessions Judge, Hyderabad in Cr. Rev. Application No. 09 of 2012, whereby the learned Judge while allowing the application moved by respondents 4 to 8 through SSP Hyderabad set-aside the order dated 13.2.2012 passed by learned Civil Judge & Judicial Magistrate, VIII Hyderabad in Cr. Case No.1 of 2011 directing the Nazir of the court to handover possession of mosque / madersa to the applicant.

2. Brief facts of the case are that there was dispute between applicant and respondents 4 to 8 in respect of mosque / madersa and since there was law and order situation therefore, SHO PS Husri submitted application under Section 145 r/w Section 107 Cr.P.C. in the court of Civil Judge & Judicial Magistrate, VIII Hyderabad who resolved the grievance of both the parties. After some time, once again the dispute arose, therefore, SHO PS Husri moved application under Section 145 Cr.P.C. to the said court who attached the Madersa / mosque through Nazir of the court till further order vide order dated 29.3.2011. Subsequently the said order was reviewed by Civil Judge & Judicial Magistrate, VIII Hyderabad and passed another order in favour of applicant with direction to the Nazir to handover possession of madersa / mosque to the applicant and further directed both the parties to furnish solvent surety in the sum of Rs.30,000/- for maintaining law and order situation. Subsequently respondents 4 to 8 forcibly driven out the applicant from Madersa after severe maltreatment, therefore, he approached SHO PS Husri

but he did not take any action and on the contrary respondents 4 to 8 through SSP Hyderabad moved application to learned Sessions Judge, Hyderabad who treating the said application as Cr. Rev. Application against the order of Civil Judge & Judicial Magistrate, VIII Hyderabad recalled the order and directed for re-sealing of the mosque / madersa, hence the instant Cr. Misc. Application.

3. During pendency of this Cr. Misc. Application, both the parties moved an application under Section 561-A Cr.P.C. (MA No. 1504 of 2022) praying for setting aside the impugned Order dated 1.3.2012 passed by learned IInd Additional Sessions Judge, Hyderabad in Cr. Rev. Application No. 09 of 2012 with further direction to SSP Hyderabad and SHO PS Husri to de-seal Madersa Syedna Hissan Bin Sabit of Jamia Masjid Farooqia as both the parties have settled their dispute outside the court. Both the parties are present and have signed the application under Section 561-A Cr.P.C. and have also filed affidavits to the extent of compromise arrived by them and jointly requested to de-seal / re-open the above mentioned Masjid / madersa.

4. In view of compromise between the parties, the Nazir of learned 1st Senior Civil Judge, Hyderabad is directed to de-seal the Masjid / madersa above named. However, SSP Hyderabad and SHO PS Husri are directed to maintain law and order situation and if they feel any breach of peace in the said Masjid / madersa, they shall take strict action against the demons / in accordance with law.

5. This Cr. Misc. Application stands disposed of.

JUDGE