

**ORDER SHEET**

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

**C. P No. D – 84 of 2006**


---

Date	Order with Signature of Hon'ble Judge
------	---------------------------------------

---

**For direction**

1. For orders on CMA No.2245/2021 (Ex.A)
2. For orders on CMA No.2246/2021 (1 Rule 10)
3. For hearing of CMA No.3679/2010 (C/A)

**24.03.2021**

Mr. Shoaib Niaz Khaskheli Advocate for the petitioner  
M/s Ghulam Murtaza Buriro and Hamid Ali Memon Advocates for  
Applicants/Intervenors  
Mr. Ahmed Ali Shahani, Assistant Advocate General Sindh

&gt;&gt;&gt;&gt;&gt;&gt;..&lt;&lt;&lt;&lt;&lt;&lt;&lt;

**CMA No.3679/2010:-** This Constitutional Petition was disposed of vide order dated 15.05.2007, whereas, the petitioner has filed the listed application, seeking initiating of contempt proceedings against the alleged contemnors / respondents.

2. In response to the notice, the Chief Engineer Highways Sukkur filed his counter-affidavit taking a stance that the land in question was acquired in the year 1997 by the Highways Department and on the direction of this Court vide order dated 15.05.2007, an amount of Award worth Rs.1,27,57,620/- was released to the petitioner in the year 2012 with all benefits according to Land Acquisition Act, 1894, but inspite of that the petitioner has still not handed over the possession of the said acquired land.

3. In order to resolve above controversy so also to ascertain as to whether the possession of entire acquired land i.e (00-17) Ghuntas has been handed over by the petitioner to the Highways Department or the same is still in his possession, this Court vide order dated 16.12.2020

(C.P No.D-84/2006)

directed learned District & Sessions Judge, Khairpur to appoint any Civil Judge, who shall visit the land in question with the assistance of Mukhtiarkar (Revenue), Kingri and Chief Engineer Highways Department Sukkur. Pursuant to said order, learned Civil Judge & Judicial Magistrate, Pir-jo-Goth submitted compliance report dated 16.01.2021. On perusal of said report, it is evident that only an area of 00-06 Ghuntas of the land in question has been utilized by the respondents department i.e. an area of 00-05 Ghuntas has come under road constructed by the Highways Department instead of 00-16 Ghuntas out of Survey No.104/A(2-09) and an area of 00-01 Ghunta out of Survey No.105(1-27) acres has also been shown as an acquired land, whereas, the petitioner claims the compensation of entire acquired land i.e. (00-17) Ghuntas and according to respondents, the petitioner has failed to hand over the possession of remaining area of (00-11) Ghuntas of the land in question though he has received compensation of entire acquired land, but this fact has been denied by the petitioner in his affidavit/objections filed against the compliance report dated 16.01.2021, submitted by learned Civil Judge & Judicial Magistrate, Pir-jo-Goth.

4. Since the complicated questions of law and disputed questions of fact are involved in this matter and it has repeatedly been held and law itself provides that the said complicated questions of law and disputed questions of fact are not to be adjudicated in the proceedings before this Court, as the determination of the said questions fall within the sole domain of the civil Court, therefore, the respondents department is directed to initiate proceedings against the petitioner before the competent Court of law within a period of 15 (fifteen) days either for recovery of possession of remaining area of (00-11) Ghuntas of the land in question and / or recovery of the compensation amount of remaining area of (00-11) Ghuntas of the land in question, which according to respondents, has already been released to the petitioner and such compliance report be submitted to this Court through Additional Registrar. Once the above

proceedings are initiated against the petitioner before the competent Court of law, the same shall be decided and concluded within a shortest possible time of 30 (thirty) days in accordance with law and after hearing both the parties under compliance report to this Court through Additional Registrar.

5. In view of the above, the listed application (**CMA No.3679/2010**) stands **disposed of** in the above manner.

6. So far as Application under Order 1 Rule 10 CPC (**CMA # 2246/2021**) filed by applicants/interveners, namely, Mst.Badar-un-Nisa and Syed Saleem Shah claiming to be 50% sharers-holders in the acquired land is concerned, the same is also **disposed of**, as according to learned counsel appearing for the applicants/intervenors the Civil Suit No. Nil of 2019 re- Mst. Badar-un-Nisa and another vs. Syed Azam Ali Shah was dismissed in limine by learned Senior Civil Judge-III, Khairpur vide order dated 23.12.2020 having no cause of action to the applicants/intervenors, but due to above development before this Court, the applicants/intervenors may avail the civil remedy before the competent Court of law on fresh cause of action. The Civil Suit, if filed by the applicants/intervenors shall be decided by the same Court in accordance with law.

7. Before parting with this order, since gross negligence and carelessness has been pointed-out on the part of respondents department by releasing whole payment / compensation of acquired land to the petitioner without taking its entire possession from him, therefore, Chief Secretary, Government of Sindh is directed to initiate inquiry against the delinquent government Officers / officials, who showed their negligence and carelessness while dealing with the matter in question under compliance report to this Court through Additional Registrar within a period of 30 (thirty) days, positively.

Judge

Judge