

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.
Cr. Misc. Appln. No.S- 512 of 2020

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection
2. For hearing of main case.
3. For orders on MA-6828/2020

15.03.2021.

Ms. Sobia Saleem Qambrani, advocate for applicants.
Ms. Sana Memon, A.P.G for the State.

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IRSHAD ALI SHAH, J.- The applicants by way of instant Criminal Misc.

Application u/s 561-A Cr.P.C have impugned order dated 05.11.2020, passed on application u/s 22-A & B Cr.P.C by learned Ex-officio Justice of Peace/Sessions Judge, Matiari, which reads as under;

“The concerned authorities are directed to point out as to where the actual drainage dump was in the village Sher Muhammad Thora. They are also directed to demarcate the plot of Respondent which he is claiming to purchase.”

2. It is contended by learned counsel for the applicants that the learned Ex-officio Justice of Peace/Sessions Judge, Matiari was having no authority to have issued direction for demarcation of plot in exercise of his powers u/s 22-A & B Cr.P.C by way of impugned order, same being illegal is liable to be set-aside.

3. None has come forward on behalf of private respondents. However, learned A.P.G for the State did not support the impugned order by contending that it has been passed without lawful authority.

4. I have considered the above arguments and perused the record.

5. *Section 22-A(6)(iii) Cr.PC*, prescribes that;

“[(6) An Ex-officio Justice of the Peace may issue appropriate directions to the police authorities concerned on a complaint regarding.

(i) Non-registration of criminal case;

(ii) Transfer of investigation from one police officer to another; and

(iii) neglect, failure or excess committed by a police authority in relation to its functions and duties.]”

6. There is nothing in above section of law which may have authorized an Ex-Officio Justice of Peace, to have ordered demarcation of the property by exercising his powers under section 22-A(6)(iii) Cr.PC, rather the provision is quite clear and obvious and it is aimed to provide a watch over acts and omissions of *police* only. It may be observed here that “*jurisdiction*” is meant a power to hear and decide a legal controversy between the parties which could be vested by the *law* alone and absence of such *power*, it would be sufficient to render such order to have been passed “*without jurisdiction*”.

7. In case of *Searle IV Solution (Pvt.) Ltd. v. Federation of Pakistan* 2018 SCMR 1444 (Rel. P-1458), it has been observed by Hon’ble apex Court that;

“jurisdiction” is meant a power to hear and decide a legal controversy between the parties”.

8. In view of above, the impugned order having been passed without jurisdiction is set aside

9. The instant Criminal Misc. Application is disposed of accordingly.

JUDGE