

IN THE HIGH COURT OF SINDH AT KARACHI

Present:
Muhammad Shafi Siddiqui, J.
Agha Faisal, J.

CP D 958 of 2021 : Riaz Muhammad vs.
The Province of Sindh & Others

CP D 959 of 2021 : Abdullah Khan vs.
The Province of Sindh & Others

For the Petitioners : Khawaja Muhammad Azeem,
Advocate

For the Respondents : Mr. Abdul Jalil Zubedi,
Assistant Advocate General Sindh

Date of hearing : 07.03.2021

Date of announcement : 07.03.2021

ORDER

These petitions *prima facie* assail the anti-encroachment drive taking place at *Gujjar Nala* Karachi, in compliance with the orders of the honorable Supreme Court.

2. Per petitioners' counsel, the petitioners had filed suits before the learned Anti-Encroachment Tribunal ("Tribunal"), which had earlier been dismissed; however, notwithstanding the same the present petitions have been preferred, *inter alia*, seeking a declaration that the respective properties do not fall within the ambit of the encroachment under the reference.

3. We have heard the learned counsel and perusal of record demonstrates that the suits¹ before the learned Anti-Encroachment Tribunal were dismissed on 14.03.2018 for non-prosecution, *inter alia*, on account of plaintiffs' side remaining absent without justification for the preceding 10 dates of hearing. Learned counsel was unable to articulate as to how the present petitions could be entertained once the relevant Suits had been dismissed and no efforts were manifest on behalf of the petitioners to mitigate the aforesaid dismissal.

¹ Suit 08 of 2017 and Suit 09 of 2017 ("Suits").

4. The honorable Supreme Court has passed a detailed order², dated 14.06.2021, wherein even in the pending matters before the learned Anti-Encroachment Tribunal, *para materia* hereto, the interim orders / stay orders were vacated and the said suits were disposed of. The order sheet demonstrates that on the very first date³ of hearing herein, this Court had raised the objection of maintainability, specifically directing the counsel to satisfy as to how these petitions were maintainable in view of specific orders of the honorable Supreme Court with regard to removal of encroachments on the *Gujjar Nala* area. The record demonstrates that the petitions were not pursued subsequently until today, during the tenancy of the Court's summer recess.

Learned counsel for the petitioners was confronted in such regard, however, he vociferously insisted that this court may give a declaration in favor of the petitioners, notwithstanding the dismissal of the Suits and the supervening orders of the honorable Supreme Court.

5. The aforementioned order of the honorable Supreme Court is clear and no interference by this court is plausible in such regard. The petitioners remained at liberty to approach the honorable Supreme Court to seek any clarification warranted; however, the attempt to invoke the jurisdiction of this Court, in such regard, cannot be appreciated. In any event, the petitioners had availed their remedy before the learned Anti-Encroachment Tribunal and no remedial measures were taken since 2018, when respective Suits were dismissed.

6. In view hereof, it is our considered view that the present petitions are not maintainable; hence, the same are hereby dismissed; while imposing costs upon the petitioners' counsel of Rs. 10,000/- each, to be deposited within one week before the Sindh High Court Clinic.

JUDGE

JUDGE

Khuhro/PA

² CMAs 441-K & 549-K of 2021.

³ 10.02.2021.