

IN THE HIGH COURT OF SINDH AT KARACHI

SUIT NO.1351 of 2011

Plaintiff : Muhammad Ibrahim Thahim,
through Mr. Ravi R. Panjani, advocate.

Defendants : Province of Sindh and others,
Through Mr. Javed Iqbal advocate for FWO,
Mr. Jam Habibullah, Sate Counsel, alongwith
SIP Roshan Ali Tunio, PS Jamshoro and
Farhan Ahmed Qureshi, Assistant Director, Mines &
Minerals Department.

Date of hearing : 21.04.2015.

Date of announcement : _____.2015.

ORDER

SALAHUDDIN PANHWAR, J: Through this order I am going to dispose of the CMA 11696/2011 and 294/2015 so also examine the maintainability of the suit, as was raised vide order of this Court dated 25.11.2011.

2. Precisely, the facts are that plaintiff filed suit for Recovery of Money, Declaration and Permanent Injunction. According to the pleadings, the plaintiff claims himself to be an approved Govt. contractor with vast experience, who in result of participation after public advertisement, for open auction of collection of Royalty of surface minerals i.e Marble Silica, Sand, Reti/Bajri, Gravel, Ordinary stone, Ordinary Sand lime stone, morum e.t.c for Karachi District excluding Malir District, Thatta, Dadu, Jamshoro, Khairpur, Kambur and Shahdadpur, for Dadu-Jamshoro Districts against the minimum bid fixed as Rs.8,81,10,000/-. He (plaintiff), being the single bidder, was issued the license/contract for year 2011-2012. He (plaintiff)

before participating in the auction proceedings had fulfilled all requirements including the deposit of call deposit. Defendant no.2 through his letter dated 30th June, 2011 informed the plaintiff that the plaintiff's bid for the contract period from 1st July 2011 to 30th June 2012 for the area including Dadu and Jamshoro has been accepted with exception of area for which leases have been granted or have been recovered by the Government or prohibited for the excavation/lifting of the minerals, area in respect of which any Government or Semi Government or Autonomous Bodies raises any objection at a later stage also area which are in dispute or matters in respect of which are pending in Court /Courts of law. It is also claim of the plaintiff that he was persuaded by the conditions that there is complete ban on lifting of surface minerals from District Malir and even in the year 1998 the then Deputy Commissioner, Malik Karachi had imposed ban upon lifting of reti/bajri from the whole District Malir. Plaintiff requested through application for payment of the monthly agreed installments from 9 to 12 monthly installments and then plaintiff was orally permitted to make the payment of monthly installments in a sum of Rs.70,00,000/- by 25th of each month. Subsequently vide letter dated 11.10.2011 by issued the defendant no.2, the plaintiff was informed that his request regarding the extension of period of monthly installments from 9 to 12 has been acceded and now the monthly installments was to be paid in a sum of Rs.73,50,000/-. Prior to the above-said letter, plaintiff had paid first installment Rs.13,00,000/- and Rs.47,00,000/- and other amount of Rs.10,00,000/- was deposited; second installment of August 2011 was deposited on 26.8.2011 vide covering letter of the plaintiff dated 26.8.2011 and a covering letter of plaintiff dated 05.9.2011 and third installment was deposited so also fourth installment. The contract for one year from 1st July 2011 to 30th June 2012 was awarded for a total bid money of

Rs.882,00,000/- whereas so far only four months have passed but plaintiff deposited/paid amount of Rs.4,00,00,000/- (Rupees Four Crore only) which comes to 45% of the total bid money. The plaintiff claimed that for last few years the lifting of surface mineral has started on large stage with the help of respective police station and with the help of defendant no.1 and 2 and the defendant no.2 , despite ban, is granting permission to various parties in the so called name of leveling of earth. Within the areas, awarded to the plaintiff for recovery of Royalty the defendant no.4 illegally , without any lawful authority or jurisdiction published an advertisement in daily "Kawish" Hyderabad dated 19th June 2011 for auction of surface minerals within the boundaries of Ganjo- Takor, Kothri, Bolhari, Baran Nadi-I, Baran Nadi-II, within the area of Dadu-Jamshoro District Collection of Royalty of which area was awarded to the plaintiff and the contract for surface mineral was awarded to Mr. Mumtaz Dal and Mr. Bhutto Jamali for one year i.e 2011-2012. The plaintiff claimed that the defendant no.4 under the law had no authority to auction or award any contract for lifting of surface minerals which is within the exclusive authority and jurisdiction of the defendants No.1 and 2. Contractors and their subordinates have been awarded the contract by defendant no.4 have flatly refused to pay the royalty to the plaintiff and are extending threats of dire consequences to the plaintiff and his employees in case any demand is made for collection of Royalty from them. Defendant no.4 as well as the contractors i.e Ghulam Abbas Sodhar M/s Mumtaz Dal and Bhutto Jamali are not allowing the plaintiff to establish his check post for collection of Royalti. Plaintiff thereupon having failed to collect the Royalty approached defendants No.1 and 2 with his grievance that a huge amount of Royalty which the plaintiff is entitled to recover is not being paid to him by defendant No.4 /his contractor, upon which the

defendant No.2 vide letter dated 21.7.2011 addressed to Station Commanding Officer Cantonment, Hyderabad, Pataro; that the Royalty is liable to be paid on the lifted minerals to the plaintiff as per Sindh Mining Concession Rules, 2002. Defendant No.4 is excavating and lifting 300 Trips daily as per schedule Rs.6/- per ton which adds up to an amount of Rs.50,000/- per day. Defendant No.2 also addressed a letter dated 19th July 2011 to defendant no.3 informing them that the plaintiff has been awarded a contract for collection of Royalty surface minerals in District Dadu⁷ and Jamshoro Areas for the year 2011-2012 and the Companies/Wings (1) 122 QOC, BN(ii) 755 CONST Team Eng: (iii) 765 Const/Team Eng. Cantt. at Karachi, as construction of road in progress at Sahwan to Dadu about 21 KM, Dadu to Kokar about 11 KM, Kakar to Johi Shakh about 6 KM which is mentioned in the claim and further informed them that the Royalty is liable to be paid on the lifted minerals to the plaintiff. Plaintiff lodged his claim in respect of collection of Royalty which became due and has not been paid. Under the identical circumstances the Province of Balochistan when FWO refused to make payment of the Royalty on surface minerals to the contractor Haji Abdul Waheed and 2 others, the Contractors filed a Civil Petition before the learned High Court of Balochishtan, at Quetta and the learned High Court was pleased to hold that the FWO is liable to pay Royalty to the contractor for lifting of surface minerals. This judgment was assailed by FWO before Honourable Supreme Court and the apex Court was also pleased to uphold the judgment passed by Balochistan High Court, which case is reported as *Commanding officer, FWO v. Haji Abdul Waheed & Others* 2003 SCMR 225. In suit No.45/2011, filed by Contractor Mohammad Hafeez Jan Sarhandi, this Court also took serious note of the fact that inspite of the reti and bajri is not permitted to be lifted from District Malir, this illegal business is continuing.

To protect iconology and typography of the City of Karachi this Court directed Provincial Police officer to ensure that ban on reti and bajri be implemented in letter and spirit vide order dated 26.01.2011 and also restrained the defendant from canceling contract of the plaintiff in the said suit on account of non-payment of installments due. Apart from FWO, surface minerals are being lifted by Liaquat Medical College Jamshoro, Mehran University Jamshoro, Sindh University Jamshoro, Sehwan Development Authority, Taluka Kotri, District Jamshoro, D. Baloch Dam Gag Bungla and Gag Dam near Police Station Patt Gul Muhammad and Sharif Builders Kotri District Jamshoro, which are also lifting surface minerals in huge quantity but are not paying the Royalty which runs into millions of rupees. On account of the illegal lifting of the surface mineral from District Jamshoro and Dadu and banned area of District Malir and also on account of the declaration of calamity areas of District Jamshoro the plaintiff is unable to recover the royalty, thus he is in tremendous loss daily in connection to the royalty on surface minerals.

3. In said back ground, the plaintiff prayed as:

- A. The Decree for collection of Royalty against the defendant No.3 & 4 for a sum of Rs.4,83,91,200/- and further Royalty till the contract period of the plaintiff is subsisting;
- B. To held and declare that on account of enforced by the Government of Sindh lifting of surface minerals from District Malir issuance of permissions to lift Reti/Bajri/Surface Minerals for allowing the parties to lift the same is illegal and cancel all said permissions granted.
- C. Declare that the defendant No.1 and 2 has no lawful authority and/or jurisdiction to compel the plaintiff to pay the installments till the defendant No.1 and 2 compelled the defendant No.3 and 4 to make the payment of Royalty due against the defendant No.3 & 4 to the plaintiff;

- D. Direct the defendants No.5 and 7 to take immediate steps/actions for enforcing the ban imposed on lifting of the surface minerals from District Malir;
- E. Permanently restrain the defendant Nos.1 and 2 from demanding and/or compelling the plaintiff to make the payment of installments in time and/or from canceling the contract awarded to the plaintiff vide Letter No.MD/CD-4/730/11/8035 dated 30th June 2011;
- F. Grant of such other and further relief(s) which this Hon'ble Court under the circumstances of the case made deem fit and proper.

4. At the outset learned counsel for plaintiff while addressing the issue of maintainability raised by this Court, has relied upon the judgments, referred in the pleadings; he continued that there is a legal, valid and lawful contract whereby the defendants were legally obliged to protect the right of the plaintiff to collect the royalty, which right was denied therefore suit of the plaintiff is maintainable.

5. On the other hand, the counsel for the FWO has argued that suit is not maintainable as plaintiff cannot ask for any help for his own failure; the referred judgments are of no help for plaintiff as the issue therein was entirely different hence suit of the plaintiff is barred and not maintainable in law.

6. Mr. Jam Habibullah, State Counsel has vehemently argued that suit of the plaintiff is not maintainable under the law as plaintiff does not disclose a genuine cause of action for the plaintiff to maintain his suit with reference to events, happened or happening outside the contract area. As per terms of the contract, the contractor is not entitled to claim any concession, remission on account of any loss, damage or his credibility to collect the royalty or unforeseen calamity including natural calamity, strikes, curfew e.t.c hence the plaintiff cannot maintain his suit for his own failure.

7. The question, raised by this Court as well agitated by defendants' side is with regard to jurisdiction of this Court and that of maintainability of the suit in its present forum, which *undeniably* are related and revolving round the **Contract**. Let it be a little brighter for which I would say that contract/agreement is the name of a '*promise*' or series of '*promises*' hence there can be no legal **contract/agreement** where there had never been a proposal and acceptance thereof which binds either parties, explaining their respective obligations and duties. For clarity, the provision of Section 2 of the Contract Act, 1872 explaining the '**proposal**' and '**promise**' , being necessary are referred hereunder:-

“2(a) When one person signifies to another his willingness to do or to abstain from doing anything with a view to obtaining the assent of that other to such act or abstinence, he is said to make a proposal;

2(b) When the person to whom the proposal is made signifies his assent thereto, the proposal is said to be accepted. A proposal, when accepted, becomes a promise.”

Thus, it would be quite safe to say that it would be the four corners of the contract and contract alone which would determine the rights and liabilities of the parties. It is the Contract which is the root document therefore, it would be appropriate, just and fair to examine the same.

The **Contract** , available as P/10 shows the '**Contract Area**' as:

*'The Contract area will be included **entire Dadu & Jamshoro with the exception of** (i) areas for which leases have been granted or have been reserved by the Government or prohibited for the excavation/lifting of minerals (ii) areas in respect of which any Government or Semi Government or autonomous bodies raises any objection at a later stage also (iii) areas which are in dispute or matters in respect of which are pending in court/courts of law'*

Thus, it is evident that only '*entire Dadu & Jamshoro*' is the '**contract area**'.

This fact *even* is admitted by the plaintiff himself in his pleading. The

Contract further explains the liability of plaintiff for collection of **royalty** as:-

"5. That you will not claim any concession, remission or refund on account of any loss or damage sustained by you due to unforeseen calamities, including wars, floods roadblocks, bomb attacks, curfews, fire or your inability to recover the royalty to any reason, whatsoever.

*6. That you will be sole responsible for collection of royalty. In case any emergency, strike **or your failure to collect or recover royalty on any account** or due to any reason from the purchaser/consumer of the said mineral, you shall have no right to claim any compensation, whatsoever, on such account."*

8. It is settled principle of law that a suit for a declaratory decree can well be insisted with reference to rights and liabilities, arising out of an agreement/a contract but still the same would require the plaintiff to first establish his *legal character* with reference to the **contract/agreement** therefore, *first* I would like to examine the *legal character* of the plaintiff with respect to the relief of *declaration* with reference to Section 42 of the Specific Relief Act which reads as:-

42. Any person entitled to any legal character, or to any right as to any property, may institute a suit against any person denying, or interested to deny, his title to such character or right, and the Court may in its discretion make therein a declaration that he is so entitled, and the plaintiff need not in such suit ask for any further relief:

9. From the above reading, it is quite clear and obvious that for a declaratory decree one must *first* establish his legal character or a right as to any property. From so far examination of the contract, it becomes quite clear and obvious that the contract in question did have following promises :-

i) contract area to be entire Dadu & Jamshoro only;

ii) it was the absolute responsibility of the plaintiff himself to collect the royalty from contract area;

iii) the plaintiff himself has to hire staff, installing of check-post e.t.c for collection of royalty;

iv) the plaintiff had agreed not to claim any compensation for his failure in collecting royalty from contract area;

10. Thus, plaintiff legally cannot claim any right, title and interest in the area falling out of such *contract area* even if the same are under control of the contracting authority i.e defendant No.2. It is not what may possess or control which matters in deciding the contractual liabilities and rights but it is the subject matter of contract which would let a party to maintain a claim in respect of his rights and liabilities in respect thereof, which too with reference to promise or series of promises alone. Reference can be made to the case of *Bolan Beverages (Pvt.) Ltd. v. Pepsico. Inc.* reported as PLD 2004 SC 860 wherein it is held that:

Nature of agreement---Determination—Heading or the captions of the agreement cannot exclusively determine the nature of a contract **yet the various clauses thereof would be material in determining the real nature of the agreement.**

11. In another case, reported as *RTS Flexible Systems Ltd. v. Molkerei Alois Muller GmbH and Co. KG* (2012 SCMR 1027 (SC UK), it is held that:

“45. The general principles are not in doubt. **Whether there is a binding contract between the parties and, if so, upon what terms depends upon what they have agreed. It depends not upon their subjective state of mind, but upon a consideration of what was communicated between them by words or conduct,** and whether that leads objectively to a conclusion that they intended to create legal relations and had agreed upon all the terms which they regarded or the law requires as essential for the formation of legally binding relations. Even if certain terms of economic or other significance to the parties have not been finalized, an objective appraisal of their words and conduct may lead to the conclusion that they did not intend agreement of such

terms to be a pre-condition to a concluded and legally binding agreement.”

(Underlining is provided for emphasis)

12. At this juncture, it would be relevant, just and proper to refer the Section 37 of the Contract Act, which describes the obligations of the parties to contract as:-

*“37. **Obligation of parties to contracts.**— The parties to a contract must either perform, or offer to perform their respective promises, unless such performance is dispensed with or excused under the provisions of this Act, or of any other law.”*

13. The record *nowhere* shows that the status or events, happened or happening outside the *contract area* were/are of any relevance with the obligations of the parties, arising out of the Contract. Since the areas out of the contract area was neither mentioned in the contract nor there has been any document which could give *even* a slightest impression that such had any relevancy with the contract in question. Therefore, the plaintiff cannot legally make the activities happening out his contract area as a ground to delay or avoid his own liabilities, if such activities or consequences thereof are neither part of the contract nor referred in the Contract.

14. Be as it may, the perusal of the documents, attached with the plaint, as P-1 to P/11-S (correspondence between defendant No.2 and plaintiff towards contract) would show that plaintiff *at no material times* complained or referred to any activities outside the contract area as a *cause of any grievance towards his contract rights*. Thus, I am quite clear that present plaintiff had/has no right or interest in property situated at Karachi or activities thereon being an area outside the *contract area*. This being so, makes it clear that no relief can be legally pressed by the plaintiff with reference to such area or activities, happened or happening thereon.

15. Let me be rather clear on this aspect. The plaintiff did attach documents i.e *'Work orders or Offer letters'* (P/12 i.e 12 in numbers) so as to strengthen his plea of being prejudiced by permission to lift reti/bajri despite ban by High Court of Sindh. I have examined all the **'work orders'** so attached. All the **'work orders'** , issued by defendant No.2 for clearance of Hillocks/surplus earth/ overburden and lifting of excavated materials etc of areas of Karachi do contain/specify besides recovery of royalty to the Government that:

"It is mentioned here clearly that the lifting of reti/bajri is strictly banned, under the order of Honourable High Court of Sindh at Karachi and should be comply with."

16. Thus, the defendant No.2 cannot be said to have allowed/permitted lifting of reti/ bajri which *otherwise* has no relevancy with present plaintiff. Even if, there is such a situation it can *at the best* be complained as contempt of Court order, as passed in Suit No.45/2011. The operative part of the order, attached with plaint as P/25, is referred hereunder:-

"To protect the ecology and topography of this city, I direct the Provincial Police Officer (PPO) to ensure that the ban on reti and bajri be implemented in letter and spirit and in case of violation, this Court will hold responsible the PPO and notice would be issued to him in future. As far as the mouram is concerned, it cannot be said that lifting of such item will not affect the ecology of Karachi, therefore, permission to market the mouram would not be allowed. This ban according to the Secretary, Mines and Minerals has been imposed not only on District Malir, but also in all the Districts of Karachi to safeguard the rights of the inhabitants. In future, complaint of the nature will expose the authorities from the Police Department to contempt proceeding."

17. Thus, the present plaintiff had never any cause or case to avoid his liabilities, arising out of the contract or to expand the scope, object and even the area of the contract with reference to activities, happened or going on at Karachi i.e *area not falling within contract area*. At this juncture, the

para-6 of the written statement, so filed by the defendant Nos.1 & 2, being relevant, is referred hereunder:-

*“6. That the content of Para-8, it is submitted to the Hon’ble Court that **plaintiff has absolutely no concern with lifting of reti/bajri any where except District Dadu & Jamshoro.** The plaintiff is unnecessarily involving the area, which is totally **out of the ambit of his contract.** He is putting the blame of his inability to collect royalty on the answering defendant.’*

Therefore, plaintiff was never legally justified to maintain the instant suit for a declaratory relief with reference to area out of the contract area. Accordingly, the plaintiff is not entitled for the relief claimed as prayer clause (b) and (d).

18. At this juncture, I would like to examine the instant case from another angle that if the area out of the contract area i.e Dadu & Jamshoro is excluded then the instant suit before this Court also becomes not maintainable as no cause of action has accrued to the plaintiff within territory jurisdiction of this Court nor the subject matter is situated within jurisdiction of this Court but the Courts, established at District Jamshoro & Dadu, can competently entertain the suit of the plaintiff. The legal position is so with reference to Section 16 to 20 of the Civil Procedure Code. The discussion whereof shall come to the conclusion that phrases, *‘within jurisdiction of different courts’* and that **‘any portion of property’** used in the above section, if are read with reference to meaning of **‘property’**, explained by Section 16 of the Code would show that the suit can competently be filed in any of the **‘different Courts’** where **‘any portion of property’** is situated. This choice is however subject to **‘accrual of cause of same cause of action’** for **‘property’** portions whereof falling within jurisdiction of **‘different Courts’**. This is with an object to avoid conflicting

judgments by '**different but competent courts**' because jurisdiction of Courts is always subject to '**pecuniary & other limitations prescribed any law**', as insisted in Section 16 of the Civil Procedure Code. Thus, suit in its present form was/ is not maintainable on the point of jurisdiction.

19. The plaintiff has specifically referred to the case laws so as to maintain his suit before this Court. It would suffice to say that same are of no legal help for the plaintiff to maintain his claim because the *ratio* in the referred judgment was/is that Commanding Officer, Frontier Works Organization was not exempted from payment of the royalty on such minerals i.e Bajri, Sand, Stone crush e.t.c and since it was the command of the law (Minerals Concession Rules of 2000) hence it was so declared in Constitutional petition which was up-held by honourable Supreme Court of Pakistan in the case of COMMANDING OFFICER, FRONTIER WORKS ORGANIZATION KARACHI v. Haji ABDUL WAHEED and 2 others reported as 2003 SCMR 225. Let me add that a command of law needs no debate towards its enforcement but may require interpretation towards its application. The position and legal status of the plaintiff for his entitlement to collect the royalty shall stand clear from the written statement, so filed by the defendant No.3. The relevant para is referred hereunder:-

*'9. PARA TWENTY SEVEN: That as regards contents of para 27, answering defendant cannot be held responsible for lifting of surface mineral and he made liable to pay any royalty to the plaintiff as the contracts for construction of road had been awarded to contractor who are responsible to make the requisite arrangements including surface minerals and therefore are **directly responsible to pay royalty charges to the plaintiff.***

Thus, from the above answer of the defendant No.3 it is *no more* disputed that even the defendant No.3 did not deny the authority and legal entitlement of the plaintiff to collect the *royalty* the instant matter. The

plaintiff *per contract* was legally responsible to collect the royalty from the contract area and per contract he is not legally justified to shift burden of his failure *on any count* upon the defendants or any other person nor can legally claim any exception to his liabilities unless it is established that the defendant nos.1 and 2 or any other person claiming under them allowed or permitted anybody else to collect the royalty from *contract area* or an *exception/exemption* from payment of royalty to the plaintiff, particularly when the defendant No.3 and to station commanding officer Cantt. Hyderabad whereby specifically mentioning that :

"It is further to inform that the royalty is liable to be paid on the lifted minerals i.e Reti/Bajri, Mouram, Gravel, Lime Stone, Sand and Ordinary stone etc to the Government or the contractor appoint/authorize by the Government as per Sindh Mining Concession Rules, 2002

You are therefore requested to kindly direct the above said contractors working your control to pay royalty to the contractor Mr. Muhammad Ibrahim Thaheem."

20. Therefore, legal entitlement of the plaintiff and the legal position that defendant No.3 or any other person, claiming under him, had no exception to payment of royalty to the plaintiff, were/are not disputed, therefore, the suit of the plaintiff against the defendant No.1 and 2 to seek an exception from his liabilities towards the defendant No.2 was/is not maintainable. Let me add that an action or omission of third party (not party to contract) cannot be *legally* made a ground to avoid obligation due to be performed/discharged towards a party to a contract else not only the object of the section 37 of the Contract shall fail but there would be no legal enforcement of a *contract*.

21. Further, Rule 70 of the Sindh Mining Concession Rules, 2002 insists that holder of a mineral title shall indemnify the Government against all claims, demands, injury or damage of any kind and Rule 71 thereof insists that holder of a mineral title is required to approach licensing authority in respect of any matter or dispute regarding mineral title. In the instant matter, the present plaintiff never lodged/filed any such application before the licensing authority except that of his grievance of avoid of royalty by contractors, working under defendant no.3 which was resolved by the defendant no.2 by making things clear i.e entitlement of the plaintiff to collect the royalty even from persons, working or claiming to work, under defendant No.3.

22 In view of the above discussion, I am of the clear view that the suit of the plaintiff in its present form is not maintainable and thus plaint is liable to be rejected under Order VII, rule 11 C.P.C. However, while parting it is needless to mention here that since the legal entitlement of the plaintiff to collect the royalty from any contract area during subsisting of contract was/is not disputed therefore, the plaintiff would be legally justified to bring his claim for recovery thereof against all those who, avoided or not paid such legal royalty to the plaintiff but this would be subject to all legal exceptions.

23. Before lifting my pen, I cannot loose sight of one of the most important factor that Sindh Mining Concession Rules, 2002 do speak about the competence of the licensing authority to lease/license any area for purpose, defined therein, including extracting of minerals from such area against '*royalty*' but it *no where* speaks about use of any portion thereof for benefit of inhabitants of such area, although rights of the inhabitants were even acknowledged by the Secretary, Mines and Minerals in the suit

No.45/2011 which is evident from order passed on CMA No.313/2011, attached by plaintiff as P/25. The Sindh Mining Concession Rules, 2002 is creation of the power, exercised under Section 2 of the Regulation of Mines and Oil-Fields and Mineral Development (Federal Control) Act, 1948. The Government *no doubt* is the controlling authority and may exercise power to use and spend the benefits (revenue) e.t.c collecting from and within its territory but this should be based on principle of equity and fair-play which always demands a preferential consideration for welfare of the inhabitants from where such revenue is generated. All masses are equal but inhabitants of the area from where revenue is generated has an advantage as all operations, taken for creating such revenue, leaves consequences thereof which are bore by the inhabitants. This question came under discussion before honourable Supreme Court in the case of 'Application by Abdul Hakeem Khoso Adv. (PLD 2014 SC 350)' wherein similar issue was involved. In such case honourable Supreme Court held that:

"2. The world of today is no longer one of unbridled capitalism and *laissez-faire*. Corporate enterprises doing business the world over are being forced to consider the impact of their activities on the immediate social and environmental surroundings, habitat and infrastructure and on the people of the areas where such enterprises operate. While Corporate Social Responsibility (CSR) may be voluntary, the Government, recognizing the importance of activities of companies in the oil and gas sector, has incorporated provisions in contracts and official policies, setting out obligations of oil Exploration and Production (E&P) Companies operating in Pakistan. The present case deals with these contractual and legally mandated obligations of E & P Companies towards the environment and the societies living in the areas where these Companies are **engaged in the exploration and extraction of mineral oil and gas.**

4. While it is necessary for the economic well being of the country that the natural resources and mineral wealth of the country be exploited for the public weal, it is, at the same time, necessary that the welfare of the people residing in areas where E&P Companies operate,

is not adversely impacted and also that the inhabitants benefit from the economic activity resulting from such operations and from the natural/mineral resources extracted from their local areas. This Court has had an expansive approach when setting the boundaries of the right to life in the celebrated judgment of *Shehla Zia v. Federation of Pakistan* (PLD 1994 SC 693), with later precedents highlighting the continuing expansion of this approach for which reference can be made to the cases titled *General Secretary, West Pakistan Salt Miners Labour Union (CBA) Khewra Jhelum v. Director, Industries and Mineral Development, Punjab, Lahore* (1994 SCMR 2061) and *Abdul Wahab v. HBL* (2013 SCMR 1383)."

(Underlining has been supplied for emphasis)

In said judgment, the honourable Supreme Court of Pakistan, did sketch out a policy for benefit of the inhabitants of the Petroleum Concession Area. I have no hesitation to say that since the principle, so established in the above judgment, is with reference to rights and liabilities of the inhabitants therefore, such principle shall also apply to the area, given by the authority under Sindh Mining Concession Rules, 2002 which *prima facie* on quarry was/ is under process therefore, it would be appropriate to direct the defendants No.1 and 2 to frame a policy, taking guidance from said judgment of Honourable Supreme Court of Pakistan and to process the same for its legal enforcement even on matters, dealt and controlled by Sindh Mining Concession Rules, 2002. The report on progress of the matter be made to this Court within two months from the date of receipt of the order.

Let the copy of this judgment be sent to defendant No.1 for necessary compliance.