

*ORDER SHEET*  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT,  
HYDERABAD.

**C. P. No. D — 1722 of 2021.**  
**C. P. No. D — 1834 of 2021.**

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DATE	ORDER WITH SIGNATURE OF JUDGE[S]
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**26.04.2022.**

FOR HEARING OF MAIN CASE.

Mr. Ghulam Shabbir Mari Advocate for petitioners.  
Mr. Nabi Bux Narejo Advocate for respondents.  
Mr. Rafique Ahmed Dahri A.A.G. Sindh.

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These are two connected matters arising out of an order dated 18.09.2021 of the Anti-Encroachment Tribunal.

Brief facts are that a suit as suit No.27 of 2021 was filed before Anti-Encroachment Tribunal against some defendants. The service was affected on the private parties which are petitioners of C.P. No.D-1722 of 2021. By a common arguments petitioners claimed to have been unheard.

We have perused the record and the fact which is not denied is that the petitioners in C.P. No.D-1722 of 2021 have been disclosed as defendants No.1, 4 & 5 and the counsel appeared and filed Vakalatnama before Tribunal but he did not pursue the case diligently. Whereas in the connected petition the petitioners Muhammad Aslam and Noor Hassan were not disclosed as defendants in the suit. For them it could be said that they were condemned unheard and Article 10-A was violated since these petitioners in the connected petition claimed to be residents of said Goth / village and order was passed without hearing them. It is further claimed by the petitioners' counsel that apart from these defendants a number of villagers reside in the said goth / village and only few of them have been arrayed. We on the basis of the above contention of the parties are of the view that the petitioners of petition No.D-1722 of 2021 were not condemned unheard and are not entitled for any indulgence. Apart from this no other ground is argued. In fact they were served and a Vakalatnama was filed and it is the counsel who didn't appear and pursue his professional commitment.

It is also a matter of fact that there are number of residents and all of them have not been arrayed or heard in the proceedings before Tribunal. Two of them are petitioners in the connected petition apart from others. We, therefore, are of the view that the petitioners in the connected petition have been condemned unheard while passing an order impugned in these proceedings, however, the petitioners in C.P. No.D-1722 of 2021 cannot invoke the jurisdiction of this Court to press Article 10-A of Constitution of Islamic Republic of Pakistan as no fundamental rights have been violated.

In view of the above C.P. No.D-1722 of 2021 is dismissed whereas C.P. No.D-1834 of 2021 is disposed of accordingly after order being set-aside. The case is remanded to the Tribunal for re-hearing and passing an effective order after hearing them in a period of two [02] weeks' time.

JUDGE

JUDGE

A.