

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**

Cr. Misc. Application No. 271 of 2021

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Order with signature of Judge(s)

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Fresh case

1. For orders on MA No.4737/2021 (Exemption Application)
2. For hearing of main case

**06.05.2022**

Mr. Khadim Hussain Thahim, Advocate for the applicant  
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1. Exemption granted subject to all just exceptions.
2. This application has been filed against the impugned order dated 23.04.2021 passed by the VIth Additional District & Sessions Judge, Karachi West.

Brief facts of the case are that the applicant claims to be legal heir of deceased Naik Muhammad Mengal, who was allotted agricultural land measuring 16 acres in Na-class No.144, situated at Deh Manghopir Taluka and District West Karachi by Sindh Board of Revenue for 30 years vide allotment order dated 18.07.1993, which land per learned counsel, was in physical possession of the applicant and his father and after death of his father it is alleged that a builder is trying to tress pass upon the said land, where-against the applicant moved an application to concerned SHO seeking protection, which application remained unanswered, whereafter, he filed Criminal Misc. Application No.1057 of 2021 under section 22-A Cr.P.C before Ex-Officio Justice of Peace in the Court of VI Additional District & Sessions Judge West at Karachi, where the impugned order was passed. Upon the said application, an inquiry was sought from concerned SHO, which was provided in terms of Annexure A/2 page 15 dated 23.04.2021 stating that the parties are in dispute and have engaged in a Civil Suit bearing No.29 of 2017 before the High Court of Sindh and upon such report the impugned order is passed with the following operating part:-

“I have heard the advocate of applicant, perused the contents of application and police report, it appears that there is a civil dispute between the applicant and proposed accused persons over the subject property/land for which the applicant had already filed No.29/2017 before the Hon’ble High Court of Sindh Karachi. At this juncture, from the perusal of available record it cannot be said that any cognizable offence is made out for which the matter could have been reported to the concerned SHO for recording the statement u/s 154 Cr.P.C., hence the instant criminal miscellaneous application is hereby dismissed.”

Learned counsel for the applicant submitted that it is fundamental right of every person to be provided protection under the law and denial of his request to record statement under section 154 Cr.P.C is in violation of these rights. He placed reliance on the judgment reported as 2019 P Cr.LJ 281 [Sindh (Hyderabad Bench)].

Heard the counsel and reviewed the record.

It appears that the land in question was granted to the predecessor of the present applicant under Colonization of Government Land Act, 1912 vide notification dated 18.07.1993 for agricultural purposes for a period of 30 years, which term is coming to an end on 17.07.2023. Counsel has not provided any document to show that the subject land has been used for agricultural purpose or any request for extension of the lease term has been made out. Incidentally, parties are at dispute in a civil suit. With regard to the prayer for providing protection to the applicant, Constitution provides protection to every person against illegal acts of third parties and the mechanism is provided under the code of criminal procedure to arrest such illegalities.

In the given circumstances when parties are already in civil litigation petitioner cannot be given opportunity of forum shopping as restricted by the Hon'ble Supreme Court in the cases of *Bashir Ahmed v. Additional Sessions Judge, Faisalabad and 4 others* (PLD 2010 SC 661) and *Zuhair Abbas Taheem v. the State and others* (2017 SCMR 77).

Resultantly the instant application devoid of merits is dismissed.

JUDGE