

# IN THE HIGH COURT OF SINDH, KARACHI

C.P No.D-99 of 2020

*[Mst. Syed Sheerin vs. The Province of Sindh and others]*

**Present:**

**Mr. Justice Zafar Ahmed Rajput and**

**Mr. Justice Muhammad Faisal Kamal Alam**

Date of hearing : 28.10.2021

Petitioner  
*[Mst. Syed Sheerin]* : Present in person.

Respondents No.1 to 10  
*[The Province of Sindh and others].* : Represented by Mr. Miran Muhammad Shah, Additional Advocate General Sindh.

Petitioner No.11  
*[Uzair Dawood]* : Represented by Mr. Muhammad Haseeb Jamali, Advocate.

: Mr. Shabbir Shaikh, Advocate for Board of Revenue.

## **ORDER**

**Muhammad Faisal Kamal Alam, J:** The Petitioner has main grievance against the private Respondent No.11-Uzair Dawood and states that he with the help of other official Respondents, have attempted to encroach the land of the Goth/Village, for the purposes of constructing the Factory / Houses and this act on the part of Respondent No.11 shall cause serious prejudice and losses to poor Villagers. It is also stated that Suit No.76 of 2018 was preferred in the Court of learned IIIrd Senior Civil Judge, Malir, Karachi, and a subsequent Proceeding-Suit No.7 of 2018,

before the learned Anti-Encroachment Tribunal, Karachi, which was disposed of in favour of Petitioner and Villagers.

2. Respondent/Mukhtiarkar has filed his Pawa-wise Comments, according to which, 'Haji Peer Shah Goth' is existing in Na-Class No.90 and 91 of Deh Khanto near main National Highway, Malir, Karachi. A land measuring 10:00 Acres falling in Survey Nos.118 and 119 from above Na-Class 90 and 91, was further transacted; the said property was released from Agricultural Bank, Memon Goth Branch vide its Letter No.MGB/G/46/KYC/88-465 dated 24.10.1988 and the same was entered in favour of owner Hamzo son of Haji Ibrahim, who through his Attorney M.A. Khan son of Muhammad Dawood Khan sold out the said land to Uzair Aziz Dawood son of Aziz A. Dawood through registered Sale Deed bearing No.512 dated 09.05.1992. It is further stated that in the above Suit Proceeding-Suit No.7 of 2018, a demarcation was conducted by the Survey Department and present Respondent No.4 (*Assistant Commissioner*), followed by an Anti-Encroachment Drive, which resulted in removal of illegal encroachment. Learned AAG has referred to another Comments filed by Respondent No.7 (*Mukhtiarkar Sindh Gothabad Scheme Malir, Karachi*), according to which, an area of 18-33 acres was sanctioned in the name of above Goth out of Na-Class Nos.90 and 91, Deh Khanto by the then Deputy District Malir, Karachi, vide Letter No.DC/K/Malir/489/2012 dated 01.02.2012, including an earmark area. Upon complaint of Villagers, a joint demarcation was conducted and the encroachment was removed.

3. Learned counsel for private Respondent No.11 has controverted the stance of Petitioner and has referred to number of documents to show that 10:00 Acres from the above Na-Class Nos.90 and 91 was carved out and given Survey Nos.118 and 119, which were purchased by the present Respondent No.11 through a Registered Conveyance Deed dated

09.05.1992. It is also mentioned in the Counter-Affidavit of Respondent No.11 that a parallel litigation in the shape of Suit No.22 of 1993 and High Court Appeal No.62 of 1994 are *sub judice* between Respondent No.11 and the original allottee of the said land in dispute (of 10:00 Acres).

4. Arguments heard and record perused.

5. Registered Deed of Conveyance dated 09.05.1992 between Hamzo son of Haji Ibrahim and Uzair Aziz Dawood son of Aziz A. Dawood, present Respondent No.11 is available in the record (*at page-53; Annexure CA/1 of the Counter-Affidavit*). This Conveyance Deed is in respect of above Survey numbers carved out from Na-Class No.90, Deh Khanto (*ibid*). As far as the proceeding of Suit No.76 of 2018 is concerned, as relied upon by the Petitioner, the Order dated 25.08.2020 passed in the said Suit has been perused, which shows that it was instituted by present Petitioner in respect of the above Goth and the learned Court after going through the Record has rejected the plaint under Order VII Rule 11 of CPC; this Order has been placed on record through the Statement dated 08.09.2020 of learned Advocate of Respondent No.11 and not by the Petitioner, apparently to conceal this fact. Order dated 28.10.2019 passed in Suit No.07 of 2018 by the learned Anti-Encroachment Tribunal (Karachi) is also considered, which the Petitioner is claiming to be in her favour. The above Suit is dismissed, which was filed by one Muhammad Aslam, seeking protection of common Graveyard Land, situated in the vicinity of different Goths/Villages, including the above 'Haji Peer Shah Goth'. It is observed in the said Order that the Subject Goth is over an area of only 18-33 Acres, Deh Khanto and the Graveyards are on an area of 5-08 Acres and 3 Acres and not 100 Acres as claimed by the Plaintiff in the above Suit.

6. The stance of present private Respondent No.11 appears to be correct in the light of Para-wise Comments filed by Respondent No.5 and

the aforementioned Registered Conveyed Deed in favour present Respondent No.11 coupled with other Official Documents, including Search Certificate dated 15.12.2008 (page-217, Annexure C-A/15 of Counter-Affidavit). Since adverse claims are raised in respect of above Survey numbers, which were carved out from the Na-Class No.90 regarding which it is claimed by the Petitioner that it is a land belonging to above Goth, whereas, Respondent No.11 states otherwise, therefore, such intricate dispute concerning the title / ownership cannot be decided in this Petition, particularly in view of the pending litigation in the form of above Suit No.22 of 1993. More so, the official version is that encroachment if any on the Goth Land has been removed; thus, apparently the grievance of Petitioner has been addressed.

7. In view of the above discussion, this Petition is dismissed, leaving the Petitioner to avail remedy, if available in accordance with law. However, it is clarified that any observation made in this Order will not prejudice any proceeding either pending or that could be instituted in future, which will be decided on its own merits and record.

JUDGE

Dated 09.05.2022  
M. Javid.P.A

JUDGE