

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

C.P. No.D — 1631 of 2022.

DATE

ORDER WITH SIGNATURE OF JUDGE

31.05.2022.

FOR ORDERS ON OFFICE OBJECTION.
FOR ORDERS ON M.A.5655/2022.
FOR ORDERS ON M.A. 5656/2022.
FOR HEARING OF MAIN CASE.

Barrister Jawad Ahmed Qureshi & Mr. Osama Yousuf Parhyar
Advocates for the petitioner.

Mr. Khurram Shahzad, Additional Director General, Law & Zaheer
Abbass Khowaja, Law Officer Election Commission of Pakistan
alongwith Saleemuddin Dal District Election Commissioner Tharparkar,
Prem Chand Additional D.C Mirpurkhas, Roshan Ali Jatoi DEC
Mirpurkhas, Masood A. Qureshi REC Mirpurkhas, Lutuf Ali Mastoi E.O
Umerkot, Muhammad Saleem Shaikh AC Shujaabad, Muhammad
Yousuf Majeedano DEC Hyderabad and Ali Abdullah Khalid REC
Hyderabad

Mr. Muhammad Humayoon Khan DAG

Mr. Habib ur Rehman Advocate for respondent/ NADRA.

Mr. Allah Bachayo Soomro, Additional A.G Sindh.

This petition pertains to delimitation of Town Committee Diplo District
Tharparkar, wherein objection petition No.19 of 2022 was considered. Petitioner
by virtue of a written objection has objected the delimitation as under:-

*We under signatories are registered voters and inhabitants of Diplo
Town; reside within the legal jurisdiction of Town-Committee Diplo. All
are adult, Muslim and law abiding citizens of Pakistan, have safeguard
of all provisions of 1973 Constitution of Islamic Republic of Pakistan.*

*Due to the continuous politically backed encroachment by illegal
encroachers, who hail from neighboring villages into Diplo, thereby legal
Jurisdiction of Town Committee Diplo became adverse with respect to
geography and demography of the city. Hence, we have serious
reservations over Form-8 (Rule-19) vide preliminary List of
constituencies for Local Government Town Committee Diplo, Taluka
Diplo, District
Tharparkar as the same are disadvantage to land title holders.*

For this reason we state as under:

1. That, in the preliminary General Ward No.1, Block 404040104, population 1205 capita is based on encroachment over Gaucher Land (Animal grazing land), legally not a part of jurisdiction of Diplo City, whereupon illegal residents have no title of land In Record of Rights, hence exclusion of Block 404040104 is requested and ward shall be held in its original past position as of 1987 local body Poll, because it is unchanged in position and population.

2. That, preliminary General Ward No. 03, Block (s) 404040108 & 404040101 both are based on illegal encroachment over Gaucher Land (Animal grazing land), 02 orders of Hon'able Court(s) are passed to removal of encroachment. See Hon'able High Court of Sindh Hyderabad passed order viz. 23.12.2021: in CP. No. D-24 of 2021 and Hon'able District Court Tharparkar, vide Court of Senior Civil Judge-11, Mithi passed order in F.C. Suit No.39/202 dated 04.02.2021, P/Copies attached. There we request to abolish G/Ward No.3 as t has no legal jurisdiction and Title in any noun of law.

3. That, so far, the notification of Fom-8 (Rule-19), Preliminary List of Constituencies for A Local Government, Town Committee Diplo, Tahuka Diplo, District Tharparkar is Touchy & irritable, therefore, kindly term it down and may carryout the constituencies / wards on original Poll of 1987; as the then population have not changed their habitation rather encroachers have created a lot of nuisance and gloom to the locale.

Prayers

Sir, we profoundly request that, Form-8, Preliminary G/Wards of Town Committee Diplo as framed, may, however, be abolished to protect the fundamental Rights of title holders and devoid the same advantage from encroachers in the interest of law, constitutional and fundamental guarantees as envisaged in 1973 constitution of Isiamic Republic of Pakistan. Illegal encroacher, who are backed by Religio-Politico-Communal based move of some Hindu MNAs, MPAs and a Senator as they by their ulterior motives want to occupy the local body by ill means and such campaign may pave path to social and religious disharmony and cause dissonance.

The order shows that these objections were not answered accordingly by giving sufficient reasons as required under section 24(i) of General Clauses Act and as required under the recent pronouncement in the case of Zulfiqar Ali Malik v. Election Commission of Pakistan in C.P. No.D-328 of 2022. Hence we remand the case to the Delimitation Authority for considering the objections in the light of para 21(ii)(iv) and (vi) of the aforesaid order. Even Committee which issued Form-8 not signed by a Member of the Committee.

Petition is disposed of accordingly in the above terms.

JUDGE

JUDGE

A.