

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

**Suit No. 1146 of 2022**

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Order with signature of Judge(s)

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1. For orders on CMA No.11463/2022 (Urgent Application)
2. For orders on CMA No.11464/2022 (U/O XXXIX Rules 1 & 2 CPC)
3. For orders on CMA No.11465/2022 (U/O XVIII Rule 18 CPC)
4. For orders on CMA No.11466/2022 (U/O 40 Rule 1 CPC)

**10.08.2022**

Mr. Ahmed Ali Hussain, Advocate for the plaintiffs  
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1. Urgency granted.

2-4. Learned counsel for the plaintiffs submits that the plaintiff No.1 is a housing society, whereas plaintiff Nos.2 to 7 are individuals whose lands have been encroached upon. He states that the Society in toto purchased/exchanged roughly 485 acres of land in various Na-classes of Scheme 33, Karachi, whereas, the controversy at hand pertains to Na-Class 76/77 for 200 acres situated in Deh Bhatti Amri, Sector 10 KDA Scheme No.33, Karachi being the suit land. Counsel states that as early as 2009 a suit was filed (page 443) by the plaintiff society against Government of Sindh, respective Mukhtiarkar, Survey Superintendent and EDO as well as arraying Allah Bux Goth Welfare Association (present defendant No.11), where this Court vide order dated 03.04.2009 (page 507) was placed to pass order that no third party interest be created in respect of the suit land, whereafter, a number of further orders were passed, where vide order dated 26.01.2010 the entire land was attached and thereafter directions were issued for the Nazir to take possession and remove any encroachment with the help of DIGP concerned and other officials. Counsel contends that the Nazir submitted various reports, which reflect that between first visit to the latest report (page 895) the entire land has been encroached upon. Learned counsel states that the suit is still pending, however, Nazir was directed to remove encroachment from the subject land. Learned counsel states that thereafter a constitutional petition bearing C.P No.D-1499 of 2009 was filed by M/s. Allah Bux Goth Welfare Association claiming the Goth on the subject land was duly sanctioned by the Deputy Commissioner as early as 1989 and upon submission of reply vide para-3 by the concerned Mukhtiarkar (page 1781) where it was suggested to the Court that

according to sanction order No.SGAS/98 of 1989 issued by the Deputy Commissioner East, Allah Bux Goth/Village was regularized for a total area of 52 acres from Na-Class 76/77, Sector 10 in deh Biti Amri, Scheme 33, Karachi. Learned counsel states that it later came to the Court's knowledge that the said report of the Mukhtiarkar Sindh Goth Abad Scheme was not reflecting the true legal position and upon an application made by the present plaintiff No.1 under order I Rule 10 CPC, this Court was pleased to pass order dated 15.04.2010 by taking serious notice of such illegality and issued directions for institution of inquiry in the matter and to fix responsibility and to initiate criminal proceedings under section 192 PPC against the delinquent officer.

Learned counsel drawing Court's attention to various orders passed by this Court states that even thereafter the said defendant continued to make allotments to third parties in the name of Allah Bux Goth Welfare Association and when such allottees approached this Court claiming their possession through a number of constitution petitions, one of them being C.P No.D-3397 of 2019, this Court was pleased to dismiss all such petitions on the ground that the Association had no title to pass on. Learned counsel states that while the plaintiffs still have not been given full possession of the land in question and the exercise of encroaching the land is still going on, the defendant No.7 wrote colourable letters available at page 2625 to 2629 to the Deputy Commissioner East, Karachi, as well as Assistant Commissioner, Sub-Division Gulzar-e-Hijri (Scheme-33), Karachi for the constitution of a Joint Survey and Demarcation of Allah Bux Goth falling in Na-Class 76/77. Counsel contends that whilst the exercise contemplated by these letters has not even been carried out, merely on the basis of such letters, the said defendant has commenced issuing allotments to the third parties, completely ignoring the earlier proceedings, where a departmental inquiry was instituted against the delinquent Mukhtiarkar, who had filed certain forged documents before this Court. Counsel further states that the true fact is that the Goth is only spread over 4.02 acres of land, however, through the instant exercise of demarcation coupled with the fact that public notices are being placed, as available at page 375, calling upon people at large to approach a focal person alongwith CNIC and two photographs for issuing leases in the said Goth, such area is spread to endless limits eating up the plaintiff's lands. Counsel contends that the instant initiative of these defendants aims to invalidate the entire proceedings taken before this Court for the last 12 years and more and more individuals would be lured to invest and the

defendants would pocket huge sums of money from such unwary purchasers. A request is made that the defendants be restrained from giving any allotments or regularizing any earlier such allotments of the subject land admeasuring 52 acres in Na-Class 76/77, in Deh Bhatti Amri, Sector 10 KDA Scheme No.33, Karachi till the next date of hearing, as well as, Nazir be directed to inspect the subject property and file his report.

Issue notice to the defendants as well as to learned Advocate General, Sindh for **12.09.2022**. In the meanwhile, official defendants as well as private defendant Nos.9 to 12 are restrained from creating any third party interest or regularizing or allotting any lands/plots or making encroachments over the above land. Nazir of this Court is accordingly directed to file a report after having visited the above land, taken photographs in the presence of the learned counsel for the plaintiffs, and the official defendants and submit a detailed report at the fee of Rs.50,000/- to be paid by the plaintiff in advance.

JUDGE

B-K Soomro