

IN THE HIGH COURT OF SINDH AT KARACHI

RA No. 201 of 2010

Province of Sindh & others

Versus

Naseem Khan & another

Date of hearing: 27.3.2018

Applicant: Through Mr. Abdul Jalil Zubedi, Assistant Advocate General a/w Amir Bux Shaikh Mukhtiarkar Gothabad Scheme and Muhammad Khan Mirjat concerned clerk of Gothabad Scheme HQ Estate Thatta

Respondent No.1: Through Mr. Noor Muhammad Dayo, Advocate

J U D G M E N T

Muhammad ShafiSiddiqui, J.- After conclusion of arguments it appears to be a case where violation of mandatory provision of the Sindh Gothabad (Housing Scheme) Act, 1987 is at its peak.

Heard the learned Counsels and perused the material available on record.

The Province of Sindh through Member Board of Revenue, Executive District Officer (Revenue) Thatta, Deputy District Officer (Revenue) Thatta, Mukhtiarkar (Revenue) Mirpur Sakro has filed this revision application against the concurrent findings of two Courts below. Suit was filed by one Naseem Khan through his son in the Court of Civil Judge, Thatta seeking declaration in respect of the land claimed as village/Goth Kando Khaskheli that comprised of 18 acres. The

respondent/plaintiff therein sought declaration in respect of the plots that he claimed to have acquired from the allottees under Sindh Gothabad (Housing Scheme) Act, 1987 and also sought declaration to the effect that the three orders passed by the revenue authorities including the order passed by the Member Board of Revenue are illegal, void and without jurisdiction. The suit contested by the applicant was decreed and the appeal of the applicants also failed. The prime question that required consideration is whether the plaintiff/respondent who had filed a suit for declaration in respect of land/plots comprising of 212 sanads of a Goth, could be said to be validly acquired, despite prior cancellation of the title of his predecessors by Revenue Authorities.

Before filing of the suit, the District Officer Revenue while hearing the subject matter has passed an order dated 26.8.2005 in respect of the land in question highlighting the highhandedness of the concerned Mukhtiakar and officers responsible for issuing all those sanads. It was maintained by the District Officer Revenue that as against the land of 18 acres of Goth Kando Khaskheli, the sanads were issued in respect of 35 acres of land. The subject sanads were also produced before the civil Court.

The Executive District Officer then on an appeal filed by the respondent/plaintiff maintained the above order of District Officer Revenue and dismissed the appeal under section 161 of the Sindh Land Revenue Act, 1967 on 05.10.2005, after perusing the entire record and the order impugned before him.

A revision was then filed under section 164 of the Sindh Land Revenue Act, 1967 before the Member Board of Revenue who initially passed status quo order on 17.11.2005 and issued notices as well as called the R&Ps from the concerned Mukhtiakar. On hearing the respondent/plaintiff a detailed and comprehensive order was passed on 05.7.2006 discussing all the allottees and the area of land allotted to

them through sanads under Sindh Gothabad (Housing Scheme) Act, 1987. The record was then sent to the concerned District Officer Revenue for compliance. Member Board of Revenue very minutely observed each sanad and passed a speaking order.

It is applicant's case that the material before the trial Court was available as each and every sanad disclosed an area beyond permissible limits as prescribed in terms of Section 3 of the *ibid* Act. Learned Assistant A.G has taken me to one of the sanad available at age 203 which was issued to one Ms. Shaheen Effendi who is no one but the daughter of plaintiff/respondent Naseem Khan. All sanads which were available on record before the trial Court were in excess of the area that was required to be allotted under the Sindh Gothabad (Housing Scheme) Act, 1987. The respondent/plaintiff had filed a petition after exhausting remedies under the hierarchy of Revenue Laws. By the time the CP No.D-934/2006 was filed, respondent also knew that his predecessors' land was cancelled and he could have claimed all such reliefs including but not limited to setting aside of orders passed by Revenue authorities (referred above) in said petition, but he failed. He only sought remedy that his possession may not be disturbed. Be that as it may, petition was withdrawn without permission to file fresh one. The principle as applicable under original jurisdiction as to a bar under Order II Rule 2 CPC would equally apply to a proceedings under Article 199 of appellate jurisdiction when the petition was filed seeking relief for his rights in respect of the property in question. Suit was then filed after withdrawal of the petition without permission.

The second question that should have been considered was whether the plaintiff/respondent could have acquired a better title than what his predecessor had. The orders passed under the hierarchy of revenue laws was available before the trial Court whereby the title of the predecessor of respondent/plaintiff stood cancelled hence the

respondent could not have acquired better title. If anybody has a right to claim rights in respect to the land in question, it is primarily the original allottees. It is a case where apparently some corrupt officers of revenue department issued sanads in respect of land which is beyond their mandate. Had it been a transfer of a genuine sanad then the subsequent transferee could have claimed an independent right then what his predecessor had but the question on the basis of which the revenue authorities cancelled the title of the original allottees was colourful exercise of powers which was not mandated under Sindh Gothabad (Housing Scheme) Act, 1987. These allottees are no one but front-man of respondent/plaintiff. Mutation in the record of revenue authorities would not gain anything for the plaintiff/respondent as his predecessor could not have been allotted such land which was subsequently cancelled.

I have perused almost all sanads which were also available before the civil Court and virtually each and every sanad is beyond two ghuntas.

In

سندھ گوٹھ آباد اسکیم	
	
سند	
سندھ گوٹھ کنڈو خاں خیل	بنام مسات مہا بہت عبدالحق 50 پیہ
دیہ گھارو	رجاء بہت عبدالحق 50 پیہ
سیریل نمبر 35	
دیہ فارم 11	
میرپور ساکرو	تعلقہ
ضلع ٹھٹھہ۔	
<p>اسلامی جمہوری اور فلاحی معاشرے کے تقاضوں کو پورا کرتے ہوئے پاکستان کی غریب اور محنت کش طبقے کو خوشحال بنانے اور پاکستان سے آپ کی محبت کے اعتراف کے طور پر سندھ گوٹھ آباد (ہاؤسنگ اسکیم) ایکٹ 1987ء کے تحت آپ کو ایک رہائشی پلاٹ، مندرجہ ذیل تفصیل کے مطابق، بنا قیمت جملہ ماکان حقوق کے ساتھ دیا جاتا ہے۔ آپ جملہ شرائط کے پابند رہیں گے۔</p>	
ارضی : 18000 sq.ft	تفصیل رہائشی پلاٹ نمبر: 78
جنوبی : گلی	حدود: شمال : لنک روڈ
مشرقی : گلی	مغربی: پ 79
<p>کلیئر دستخط (انگریزی میں) و مہر 15/9 منتیار کار سندھ گوٹھ اسکیم ٹھٹھہ</p>	

fact some of the sanads were of even more than an area of 20,000 and 22,500 square feet at serial No.120 and 56. As far as the reliance of learned Counsel for the respondent on the proviso to Section 3 of the ibid Act is concerned, it is only in respect of “Asaish” which is defined in terms of Section 2(c) of the ibid Act which means a land adjacent to a goth and reserved for grazing and other common use of the village community. Certainly not each and every land of Goth Kando Khaskheli is “Asaish”. Similarly the word “land”, as used in the proviso is concerned, none of the allottees at the time of allotment claimed to have constructed a house on it with a view of taking up permanent residence. Every sanad stipulates that a “plot” of land is being allotted. For convenience urdu text of one of the sanads is reproduced as under:

Following are the allottees along with area and plot numbers:

S.NO.	NAME OF ORIGINAL ALLOTTEE	PLOT NO.	AREA (in sq. feet)
1	Abdul Aziz S/o Nasim Khan	89	9000
2.	Abdul Aziz S/o Rawat Khan	49	4000
3.	Abdul Ghani S/o Abdul Rehman	110	8000
4.	Abdul Ghani S/o Abdul Rehman	112	10000
5.	Abdul Ghani S/o Abdul Rehman	80	9000
6.	Abdul Ghani S/o Abdul Rehman	95	5000
7.	Abdul Ghani S/o Abdul Rehman -50 Paisa Shaheen Afandi W/o Nasim Khan -50 Paisa	64	14400
8.	Shaheen Afandi W/o Nasim Khan -50Paisa Abdul Ghani S/o Abdul Rehman -50 Paisa	82	14400
9.	Shaheen Afandi W/o Naseem Khan	147	8000
10.	Shaheen Afandi W/o Naseem Khan	107	4000
11.	Shaheen Afandi W/o Naseem Khan	113	10000
12.	Shaheen Afandi W/o Naseem Khan	79	9000

13.	Abdul Haq S/o Haji Abdul Qadir	35	4000
14.	Abdul Karim S/o Mubeen Jukhio	124	15000
15.	Abdul Majeed S/o Mangiladho	58	4000
16.	Abdul Majeed S/o Muhammad Umer Baloch	15	4000
17.	Abdul Manan S/o Abdul Rehman	68	9000
18.	Abdul Rahim S/o Noor Muhammad	198	10000
19.	Abdul Rasheed S/o Abdullah Khan Abbasi	69	4000
20.	Abdul Rehman S/o Naseem Khan	88	9000
21.	Abdul Rehman S/o Usman Thaheem	45	4000
22.	Abdul S/o Haji Muhammad	104-A	4000
23.	Abdul Salam S/o Abdul Sattar	27	4000
24.	Abdul Wahab S/o Muhammad Bachoo	36	4000
25.	Abdullah S/o Naseem Khan	87	9000
26.	Aftab Ahmed S/o Abdul Razak	125	10000
27.	Akhtar Hussain S/o Inayatullah	196	10000
28.	Ali Akbar S/o Jaffar Khan	169	8000
29.	Ali Asghar S/o Jaffar Khan	166	8000
30.	Ali Bux S/o Haji	136	8000
31.	Ali Muhammad S/o Ahmed Khan Khaskheli	5	4000
32.	Ali Muhammad S/o Muhammad Siddiq Khaskheli	17	4000
33.	Ali Murad S/o Rasool Bux	120	5000
34.	Ali Nawaz S/o Punhoon Khan	153	8000
35.	Ali Nawaz S/o Rais Mamoon Khan Malkani	71	4000
36.	Allah Bachayo S/o Muhammad Arif	142	8000
37.	Allah Bux S/o Kando Khan Khaskheli	7	4000
38.	Allah Bux S/o Mataro Khan -50 Paisa Bashir Ahmed S/o Muhammad Hussain -50 Paisa	170	10000
39.	Allah Bux S/o Shafi Muhammad	86	9000
40.	Allahdino S/o Amir Bux	30	4000
41.	Amir S/o Syed Tajali Hussain	91	8000
42.	Anwar Ali S/o Allah Bux -50 Paisa Zubeda D/o Muhammad Yaqoob -50 Paisa	191	10000
43.	Asad Ali S/o Anwar -50 Paisa Muhammad Ramzan S/o Chhota Khan -50 Paisa	190	10000

44.	Asadullah S/o Noor Muhammad -50 Paisa Ataullah S/o Noor Muhammad -50 Paisa	215	10000
45.	Asif Ali S/o Tajli Hussain	109	4000
46.	Asif S/o Tajali Hussain	98	5000
47.	Muhammad Asif S/o Syed Tajli Hussain	93	5000
48.	Ata Muhammad S/o Ali Murad Baloch	165	8000
49.	Ata Muhammad S/o Maula Bux	34	4000
50.	Ataullah S/o Ghulam Muhammad	186	5000
51.	Baboo S/o Muhammad Hashim Khaskheli	22	4000
52.	Badruddin S/o Wahid Bux	176	5000
53.	Badrunisa W/o Imtiaz	208	10000
54.	Cattle Farm of Kando Khan	32	4000
55.	Dharamdas S/o Lachmandas	56	4000
56.	Daulatram S/o Phumal	117	5000
57.	Dr. Jamil Rahman S/o Muhammad Uris	139	8000
58.	Fahim Sarwar S/o Ghulam Sarwar Soomro	44	4000
59.	Farukh Bashir S/o Bashir Ahmed	33	4000
60.	Farzana D/o Nazir Ahmed	38	4000
61.	Ghulam Ali S/o Sikandar Ali -50 Paisa Salma D/o Sikdandar Ali -50 Paisa	149	10000
62.	Ghulam Hussain S/o Ammon	123	22500
63.	Ghulam Hussain S/o Mamoon Khaskheli	21	4000
64.	Ghulam Hyder S/o Ghulam Hussain	105	4000
65.	Ghulam Mehdi S/o Hussain	171-A	10000
66.	Ghulam Mehdi S/o Muhammad Hussain 50 Paisa Muhammad Mithan S/o M. UmerJokhio -50 Paisa	201	10000
67.	Ghulam Mehdi S/o Muhammad Hussain	115	10000
68.	Ghulam Mustafa S/o Ali Murad	131	4000
69.	Ghulam Mustafa S/o Bashir Ahmed	158	8000
70.	Ghulam Mustafa S/o Muhammad Saddique	57	4000
71.	Ghulam Qadir S/o Noor Muhammad Memon	51	4000
72.	Ghulam Rasol S/o Rasool Bux -50 Paisa Naheed Akhtar D/o Ghularm Rasool - 50 Paisa	187	10000
73.	Gul Hassan S/o Muhammad Jumman	104	4000

74.	Gul Hassan S/o Allah Bachayo -50 Paisa Muhammad Ramzan S/o Chota Khan - 50 Paisa	180	5000
75.	Gul Muhammad S/o Muhammad Juman	10	4000
76.	Gulzar Ali S/o Muhammad Soomar	168	8000
77.	Habibullah S/o Abdul Khan	62	4000
78.	Haji Allah Warayo S/o Arab	148-A	8000
79.	Haji Allah warayo S/o Arab	146-A	8000
80.	Haji Allah warayo S/o Arab	133	10000
81.	Hanifa D/o Muhammad Yousuf	84	9000
82.	Hassan Ali S/o Haji Ibrahim	206	8000
83.	Humera D/o Allah Bachayo	129	4000
84.	Hussain Bux S/o Punhoon Khan	157	8000
85.	Ilim Din S/o Muhammad Arif -50 Paisa Zahir Ahmed S/o Muhammad Arif -50 Paisa	144-A	8000
86.	Jam Bijar Khan S/o Jam Haji Murad Ali Khan Bashir Ahmed S/o Haji Ilim Din	132 161	10000 8000
87.	Jamil Ahmed S/o Ghulam Hussain	75	5100
88.	Jamshed Ahmed S/o Anwar Ali	73	4000
89.	Jawad Ahmed S/o Aftab Ahmed	70	4000
90.	Karim Bux S/o Sefal	60	4000
91.	Khamiso S/o Muhammad Juman	12	4000
92.	Khamiso S/o Muharam	74-A	6000
93.	Khan Muhammad S/o Muhammad Khaskheli	3	4000
94.	Khando Khan S/o Ahmed Khan Khaskheli	8	4000
95.	Kod S/o Uris	137-A	8000
96.	Maha D/o Abdul Ghani	108	8000
97.	Maha D/o Abdul Ghani	97	5000
98.	Maha D/o Abdul Ghani -50 Paisa Ruja D/o Abdul Ghani -50 Paisa	78	18000
99.	Majid Ali S/o Ghulam Rasool	1780	10000
100.	Majid Anwar S/o Atta Muhammad	174	5000
101.	Mamoon S/o Amoon Khaskheli	121	8000
102.	Mamoon S/o Amoon Khaskheli	23	4000

103.	Manzoor Ahmed S/o Muhammad Usman	173	5000
104.	Manzoor Ali S/o Muhammad Hassan	127	5000
105.	Marvi D/o Muhammad Essa	182	5000
106.	Mashooq Ahmed S/o Muhammad Usman	175	5000
107.	Mehar S/o Muhammad Moosa Khaskheli	29	4000
108.	Mir Mansoor Ali S/o Nazir Ahmed	85	9000
109.	Mir Mansoor Ali S/o Nazir Ahmed	100	4000
110.	Mir Mansoor S/o Nazir Ahmed -50 Paisa Muhammad Iqbal S/o Jamal Din -50 Paisa	103	10000
111.	Moin-u-din S/o Feroze Din Shaikh	52	4000
112.	Mst. Zarina D/o Amoon	152	10000
113.	Muhammad Younus S/o Muhammad Hashim	25	4000
114.	Muhammad Achar S/o Muhammad Ramzan Khaskheli	28	4000
115.	Muhammad Ajmal S/o Muhammad Yaqoob	207	10000
116.	Muhammad Akbar S/o Haji Allah Waraya	134	10000
117.	Muhammad Akram S/o Bhala Khan -50 Paisa Habib S/o Bhatoo -50 paisa	150	8000
118.	Muhammad Anwar S/o Rasool Bux Bhatti	26	4000
119.	Muhammad Arab S/o Muhammad Juman	11	4000
120.	Muhammad Ashraf S/o Haji Allah warayo	135	10000
121.	Muhammad Ayoub S/o M. Ramzan -50 Paisa Usman Haji Mehar -50 Paisa	162	8000
122.	Muhammad Dawood S/o Kando -50 Paisa Jamo S/o Manik -50 Paisa	102	10000
123.	Muhammad Ibrahim S/o Ahmed Khan	9	4000
124.	Muhammad Ibrahim S/o M. Hassan Khaskheli	16	4000
125.	Muhammad Iqbal S/o Jamal Din -50 Paisa Sajid Ali S/o Ghulam Rasool -50 Paisa	137	20000
126.	Muhammad Iqbal So/o M. Moosa Khaskheli	19	4000
127.	Muhammad Khan S/o M. Bubar Khan -50 Paisa Ahsan Ali S/o Muhammad Moosa -50 Paisa	181	5000
128.	Muhammad Moosa S/o M. Khan Khaskheli	20	4000
129.	Muhammad Murad S/o Mohd. Ibrahim -50 Paisa Muhammad Ismail S/o Mohd. Ibrahim -50 paisa	192	10000
130.	Muhammad Muslim S/o Mohd. Yaqoob -50 Paisa	209	10000

	Waqaruniss W/o Muhammad Muslim -50 Paisa		
131.	Muhammad Nazeer S/o Dhani Bux	197	10000
132.	Muhammad Rasheed S/o Syed Ali Hassan	94	5000
133.	Muhammad Saleh S/o Bachal	46	4000
134.	Muhammad Sadiq S/o Mohd. Ismail Khaskheli	18	4000
135.	Muhammad Soomar S/o Mahmood	13	4000
136.	Muhammad Suleman D/o Dilbar Khan -50 Paisa Altaf Hussain S/o Muhammad Yaqoob -50 Paisa	160	8000
137.	Muhammad Suleman S/o Kamal	72	4000
138.	Muhammad Uris S/o Kando Khan Khaskheli	6	4000
139.	Muhammad Uris S/o Muhammad Bubar	61	4000
140.	Muhammad Younis S/o Haji Bhan -50 Paisa Ghulam Abbas S/o Zaheer Ahmed -50 Paisa	171	10000
141.	Muhammad Yousuf S/o Baloch Khan	122	8000
142.	Muhammad Zakir S/o Kifayatullah -50 Paisa Nisar Ahmed Ahmed S/o Abdul Sattar -50 Paisa	225	10000
143.	Mumtaz Ali S/o Muhammad Soomar	14	4000
144.	Munawar Ali S/o Muhammad Ibrahim Palijo	59	4000
145.	Munir Ahmed S/o Ahmed Khan	193	5000
146.	Munir Hussain S/o Ali Nawaz Mangi	50	4000
147.	Murtaza S/o Punhoon Khan	151	10000
148.	Nadia D/o Nasim Khan	90	9000
149.	Naheed Akhtar D/o Nazir Ahmed	106	8000
150.	Naheed Akhtar D/o Nazir Ahmed	167	8000
152.	Najma W/o Abdul Ghani -50 Paisa Ruja D/o Abdul Ghani -50 Paisa	81	14400
153.	Nargis W/o GhulamHyder	200	10000
154.	Nasir S/o Syed Bunyad Ali	67	9000
155.	Nazir Ahmed S/o Ali Gohar	37	4000
156.	Nazir Muhammad S/o Muhammad Achar	31	4000
157.	Niaz Muhammad S/o Abdul Din -50 Paisa Ali Muhammad S/o Adam -50 Paisa	140	8000
158.	Noor Ahmed S/o Haji Ilyas	214	5000
159.	Nujat Ali S/o Haji Ilim Din	159	8000
160.	Otaz Kando Khaskheli	2	4000

161.	Pathani W/o Muhammad Essa	189	10000
162.	Pathani W/o Muhammad Essa	83	9000
163.	Pir Hanif Shah S/o Pir Mahboob Shah	53	4000
164.	Pir Muhammad S/o Muhammad Arif -50 Paisa Ali Zaman S/o Hassan -50 Paisa	143	8000
165.	Pir Nazir Shah S/o Pir Mir Ali Shah	54	4000
166.	Pushotam S/o KarshanLal	42	4000
167.	Rafiq S/o Wali Muhammad	48	4000
168.	Rajb Ali S/o Ali Muhammad Khaskheli	4	4000
169.	Rasheed Ahmed S/o M. SiddiqMemon	128	8000
170.	Rasool Bux S/o Ali Murad	164	8000
171.	Razia Parveen W/o Abdullah	189	10000
172.	Riaz Din S/o M.K. Qadri	126	10000
173.	Rifat Naveed D/o Ali Muhammad	194	10000
174.	Ruja D/o Abdul Ghani	96	5000
175.	Ruja D/o Abdul Ghani -50 Paisa Najma W/o Abdul Ghani -50 Paisa	63	14400
176.	Saeed Ahmed S/o Muhammad Bux -50 Paisa Manzoor Ali S/o Muhammad Jurial -50 Paisa	188 187	10000 10000
177.	Safia Khanim S/o Shaheed M. MalookJagrani	179	10000
178.	Sajid Ali S/o Nasir Ali	130	4000
179.	Saman Mal S/o Pirsi Mal	118	5000
180.	Sardar Ali S/o Sher Muhammad	210	10000
181.	Sehat Bai D/o Muhammad Arab -50 Paisa	163	8000
182.	Shah Batool D/o Nazir	39	4000
183.	Shahid Aziz S/o Abdul Aziz	41	4000
184.	Shahjahan S/o Jehangir -50 Paisa Anaytullah S/o Abdullah -50 Paisa	172	10000
185.	Shahla W/o JamilRehman	119	4000
186.	Shahnawaz S/o Punhoon Khan	155	8000
187.	Shahnawaz S/o Punhoon Khan	156	8000
188.	Shahzadi @ Shazia D/o Muhammad Qasim	185	5000
189.	Shahzadi # Shazia D/o Muhammad Qasim	101	4000
190.	Shaista W/o Muhammad Ramzan	183	5000

191.	Shamim D/o Zahir Ahmed	199	10000
192.	Sharifa Bibi W/o Abdul Sattar	195	10000
193.	Shoukat Abbasi	146	8000
194.	Shoukat Ali S/o Dhani Bux	138	8000
195.	Sikander Ali S/o Allah Bux	184	5000
196.	Sikander S/o Arbab Ali	74	4000
197.	Soomar S/o Long Mirbehar	145	8000
198.	Syed Abdul Rehman S/o Syed Jamil	66	9000
199.	Syed Ajmal Hussain S/o Abdul Sattar Shah	24	4000
200.	Syed Saifal Malook S/o Syed Khan Shah -50 Paisa Ahmed S/o Khabar Mirbehar -50 Paisa	226	10000
201.	Syed Tajli S/o Tosal Hussain	92	8000
202.	Taj Bibi W/o Rahoo Khan Brohi	55	4000
203.	Taj Muhammad S/o Haji Wali Dad Khan	144	8000
204.	Umran Siddiq S/o Hakeem Nasim Ahmed	65	9000
205.	Vikio S/o Soomar	47	4000
206.	Wajia Anand D/o KirshanLal	77	6000
207.	Waseem Sarwar S/o Ghulam Sarwar Soomro	43	4000
208.	Yasim Munawar W/o Ahmed Khan	116	5000
209.	Yasmin W/o Ahmed Khan	111	10000
210.	Yasim Munawar W/o Ahmed Khan	148	8000
211.	Yasmin W/o Ahmed Khan	114	10000
212.	Yasmin W/o Haji Noor Ali	141	8000
213.	Zaheer Ahmed S/o Ali Gohar	40	4000
214.	Zaheer Ahmed S/o Punhoon Khan	99	5000
215.	Zahid Aziz S/o Abdul Aziz	76	6000
216.	Zarina D/o Ammon	117	10000
217.	Zulfiqar Ali S/o Haji Allahdino -50 Paisa Arshad Ali S/o Haji Allahdino -50 Paisa		

In response to the argument of learned Counsel for the respondent that this land was available for transfer, the definition of “deserving person” in terms of Section 2(f) ibid Act would come in the way, which provides definition of deserving person as a person residing

in area notified by Government as rural area, who is in genuine need of residential land in a village. No doubt that the proprietary rights are being transferred to such deserving persons but it could not be presumed that those deserving persons to whom the land was allotted by Government of Sindh "free of cost" would take undue advantage and would dispose it off for monetary gain immediately and those persons would then still be available for grant of further land as no NADRA record is being maintained by Revenue Authority. These sanads are silent as to their NADRA identity. The notification regarding restraining the allottees issued subsequently which provides that any land for which a sanads were issued under Sindh Gothabad (Housing Scheme) Act, 1987 are not transferable is only a clarification, however it is clear from the language of the statute that it is meant for deserving persons and if any deserving person is not interested, he should have returned it to Government of Sindh as it was free of cost.

These are material irregularities observed by the civil Court as well as by the appellate Court. The record was very much available before the civil Court who apparently, deliberately ignored all these documents.

When the plaintiff exhausted his remedies before all forums of Revenue authorities, such relief before a civil Court was not available. It was neither the case of the respondent/plaintiff that the revenue authorities had no jurisdiction to pass orders which they have passed in respect of land in question nor have they attempted to show in these proceedings. The primary question is that when the respondent has exhausted his remedy under special law i.e. Law of Revenue, whether he still had a remedy left to approach the civil Court as a second round of litigation? I am of the view that once the remedy under special law is exhausted under the revenue laws without a challenge to their

jurisdiction, then in view of above facts and circumstances the civil Court should not have assumed jurisdiction.

In view of the above, the appeal is allowed and the suit stands dismissed. The revenue authorities shall resume the land in question immediately with report to MIT-II of this Court within four weeks from today. I also expect that the Government of Sindh and Board of Revenue shall take serious action against all those officers responsible for issuing such sanads and all those who acted beyond their mandate and jurisdiction. In case the order is not complied including resumption of land in question, I shall be constrained to pass appropriate orders on the report of MIT-II. The provincial government (for the future course) shall also take steps in issuing directions to Revenue authorities to maintain NADRA record in respect of sanads issued by them in accordance with law as no sanad shall be deemed to be validly issued unless it incorporates CNIC number/NADRA record of the alleged allottees to curtail the effect of multiple allotments.

Judge