

ORDER SHEET
IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
C.P. No. D-687 of 2020

Date of hearing	Order with signature of Judge.
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Hearing of Case

For hearing of main case

21-12-2022

Mr. Nusrat Hussain Memon, Advocate for the petitioner.

Mr. Ali Raza Baloch, Assistant A.G a/w Azhar Ali Mahessar, Assistant Executive Engineer, Tharu Shah Bund Sub-Division of Rohri Division Kandiaro.

The petitioner, *inter alia*, has sought the following relief(s) through instant petition:

“a. To direct the respondents No.02 to 05 and their subordinate staff to take strict legal action against respondent No.06 for attempting to install illegal pipe into watercourse No.1.AR of Nolakhi Minor to commit canal water theft with help of lower staff of Irrigation department.

b. Further direct the respondents No.02 to 05 to distribute the canal water as per share list of each and every watercourse and no one be allowed to interfere into watercourse of others, in case of any untoward situation if any created by respondent No.06 the police help may be taken in best interest of justice.

c. To direct the respondents No.04 and 05 to submit such detailed report before this Honourable Court for further appropriate orders thereon”.

It is case of the petitioner that the respondent No. 6 (Faqeer Muhammad Bohio) is taking irrigation water illegally by installing pipe into watercourse No.1-AR of Nau-Lakhi minor and thus he is committing water theft with the help of lower staff of Irrigation department.

Respondent No.4 under directions of this Court has filed report dated 02.12.2021. It appears from perusal of said report that respondent No.4 verified the old record and found that the watercourse 1-AR ex-Lakhi ranch was sanctioned in the year 1956, as per divisional record in 100-A Form Register total measuring area 20-0

acres, Moula Bux Bohio and other Khatedars regarding transfer of area 118-0 acres from watercourse 3-L ex-Siyal minor Gambat Irrigation Sub-Division of West Division Khairpur to watercourse 1-AR ex-Nau-Lakhi Branch Kandiaro Irrigation Sub-Division-II of Rohri Division Nawabshah in the year 1966, including the predecessor in interest of respondent No.6 Faqeer Muhammad Bohio. He clearly stated that after observing all codal formalities, the transfer of area 118-0 acres of the respondent No.6 and others was sanctioned.

So far case of the petitioner with regard to getting of water by the respondent No.6 illegally is concerned, it has been denied by respondent No.4 by mentioning clearly that there is no any illegal pipe//Noli functioning at site. So far obtaining of water by the respondent No.6 from watercourse No.1-AR Nau-Lakhi is concerned, if the petitioner is aggrieved, he has an appropriate remedy under Section 26 of the Irrigation Act, 1879. Hence, this petition being devoid of any merit stands **dismissed** leaving the petitioner at liberty to avail his remedy under the aforementioned provision of law, if so advised.

JUDGE

JUDGE

Ahmad