

2RDER SHEET**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR****C.P No. D- 1205 of 2022**

Date of hearing	Order with signature of Judge
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Fresh case

1. For orders on office objection at flag 'A'.
2. For hearing of main case.

11-01-2023.

Mr. Munawar Hussain Memon, Advocate for petitioners.

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Heard learned counsel for petitioners.

Through this petition the petitioners have challenged the order dated 30.08.2022 passed by Anti-Encroachment Tribunal Sukkur. Being relevant paragraphs Nos. 14, 15 and 16 are re-produced as under .

" 14) On other hand the custodian of record of rights i.e Mukhtiarkar (Revenue) Gambat submitted the attested copies of relevant record in favour of private respondent Atta Muhammad Jamro, however case law submitted by the learned counsel of private respondents is also attracts with the present case neither the officer of Market Committee filed application nor any authority letter from Market Committee Sindh Hyderabad was obtained.

15) Moreover, it is also necessary to mention here that from the facts and reports of present application it is found that until and unless the title of property cannot be decided the determination of the encroachment is not

possible, for that the suit for declaration and cancellation is already pending before the learned Senior Civil Court Gambat.

16) In the light of above described circumstances and availability of Revenue record so also case law placed on 2021 CLC 1704, I am of the view that application of applicant is not maintainable before this Tribunal, hence dismissed under rule 6(3) of the Sindh Public Property (Removal of Encroachment) Act 2010."

Besides on subject matter property, civil suit filed by Yousif which is pending for adjudication before the Court of law. It is also contended that respondent No.13 is having legal character over the subject matter/property. Accordingly, matter requires factual controversy and parties would be at liberty to approach civil Court including petitioner.

The petition is disposed of in the above terms.

JUDGE

JUDGE

Irfan/PA

