

Order Sheet
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

M.A. No.20 of 2021

| DATE | ORDER WITH SIGNATURE OF JUDGE |
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1. For orders on office objection No.15
2. For hearing of main case

07.12.2023

Mr. Wali Muhammad Jamari, Assistant A.G Sindh.

This matter has remained pending since 2021 without any progress and even today the appellant is unrepresented without intimation or justification. While this may be a fit case for dismissal for non-prosecution, however, on perusal of the file it is noted that this is an appeal filed under Section 27¹ of the Sindh Public Property (Removal of Encroachment) Act, 2010 ("Act") against an order of the Anti-Encroachment Tribunal.

Prima facie section 27 of the Act only contemplates an appeal against an order passed by the Special Court²; and not by the Tribunal³.

Section 27 apparently does not provision for an appeal against orders of the tribunal and in the absence of any such statutory provision none can be presumed

The present case squarely attracts the observations of the Supreme Court, in the case of *Gul Taiz Khan Marwat*⁴, reiterating settled law that an appeal is a creation of statute and in the absence of any such remedy being provided none can be presumed.

Therefore, in *mutatis mutandis* application of the binding edict of the Supreme Court in *Gul Taiz Khan Marwat*, this appeal is found to be misconceived, hence, dismissed along with pending applications.

Judge

Ahmed/Pa,

¹ 27. An appeal against the order passed by a Special Court shall lie to the High Court of Sindh.

² 25. For the purpose of providing for speedy trial of offences committed under this Act, Government may establish, by notification, a Special Court in each district and a special court for each group of six towns of the City District.

³ 12. Government may by notification in the official gazette, establish a Tribunal for each district consisting of a retired District and Sessions Judge or any Advocate of ten years standing.

⁴ Per *Ijaz ul Ahsan J* in *Gul Taiz Khan Marwat vs. Registrar Peshawar High Court* reported as *PLD 2021 Supreme Court 391*.