

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**  
**Crl. Misc. Application No.S-852 of 2021**  
*(Ghulam Nabi Bozdar Vs. Inayatullah Pitafi & others)*

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection.
2. for hearing of main case.

**13-02-2024.**

Mr. Shabbir Ali Bozdar advocate for the applicant.  
Mr. Imdad Ali Malik advocate for the private respondent.  
Mr. Aftab Ahmed Shar, Additional P.G for the State.

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1. Over ruled.
2. The facts in brief necessary for disposal of instant Crl. Misc. Application are that an application under section 133 Cr.P.C was filed by the private respondent for restoration of public path, it was allowed by learned IInd Civil Judge & Judicial Magistrate, Mirpur Mathelo vide order dated 22-08-2020, such order was impugned by the applicant by making a Crl. Revision Application, it was dismissed by learned IVth Additional Sessions Judge, Mirpur Mathelo vide order dated 25-10-2021, such dismissal of his Revision Application is impugned by the applicant before this Court by preferring the instant Crl. Misc. Application.
3. At the very outset, it is stated by the learned counsel for the applicant that learned trial Magistrate has passed the order on the basis of reports furnished to him by the police and Revenue officials without recording evidence and such aspect of the case has been lost sight of by learned Revisional Court and he would not press the disposal of instant Crl. Misc. Application before this Court on merits provided learned trial Magistrate is directed to record the evidence being essential in the circumstances and then to pass the fresh order on application under section 133 Cr.P.C, which is not opposed by learned Additional P.G for the State and learned counsel for the private respondent.

In view of above, the orders below are set aside with direction to learned trial Magistrate to record the evidence of the parties on the subject dispute and then to pass fresh order on application under section 133 Cr.P.C in accordance with law.

The instant Crl. Misc. Application is disposed of accordingly.

**Judge**

Nasim/P.A

