

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

**Suit No. 1968 of 2023
& Suit No. 2019 of 2023**

Date Order with signature of Judge

Date of hearing:- 14th February 2024
Date of order:- 01st March 2024

APPEARANCE.

Mr. Abdul Ghaffar Kalwar, advocate for plaintiff.

Mr. Ghulam Rasool Soro, advocate for Intervener Mr. Sohail Latif Memon.

Mr. Rajesh Kumar Khagaija, advocate for intervener/Director Archeology
Abdul Fatah Shaikh in Suit No. 1968/2023.

Ms. Noushaba Haque Solangi, Asst. A.G. Sindh.

Mr. Ashraf Ali Mirani, Law Officer Culture, Tourism, Antiquities & Archives
Department.

Mr. Manzoor Ahmed Kanasro, D.G. Antiquities.

Mr. Roshan Ali Kanasro, R.D. Planning, Development, Monitoring &
Implantation Cell (PDM&IC), CTA&A Department.

Mr. Zahid Abbas Akhund, Focal Person/Director Culture Tourism,
Antiquities Department.

Mr. Wajid Ali Lakho, Section Officer (Legal).

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Salahuddin Panhwar, J:- Pursuant to the direction dated 23.12.2023, Culture Department, Government of Sindh has submitted a report but that report is incomplete. Secretary Culture has failed to categorize the ancient properties, which were declared/notified in view of Ancient Monuments Preservation Act 1904 up to 1947 as first category and antiquities relating to public properties declared under the Antiquities Act and Heritage Act 1994 except the properties which were declared under the Act 1904 as the second category and in the third category, properties, though declared heritage but are owned by the private persons. Accordingly, comprehensive report shall be filed along with notifications within four weeks. In case of failure, Secretary Culture shall be in attendance.

2. At this juncture, Director Antiquities has contended that pursuant to paragraph No.5 of the above-referred order, the Committee has been notified, however, no meeting of such Committee has yet been convened.

Accordingly, Committee shall complete the assignment in view of ToRs within three months. Meanwhile, interim report shall be submitted. Secretary Culture Department shall provide all logistical and financial support to the Committee Members, who shall also visit the sites of antiquities and ancient monuments relating to public property as per terms of reference.

3. Paragraph No.6 of above-referred order directs the Secretary Culture Department to ensure the establishment of a Tourism Police Force, as practiced in Khyber Pakhtunkhwa, which shall be done within three months.

4. At this juncture, Director Archeology has contended that despite directions by this court and reminders of Culture Department, Senior Member Board of Revenue and Deputy Commissioners have failed to mutate the properties owned by the Culture Department in the record of rights, though the initial requisite fee has been deposited to the Department. Accordingly, the above-referred order and the present order shall be communicated to the Senior Member, Board of Revenue with further direction that the focal person of the concerned Department shall be in attendance with compliance report; failure thereof would be considered as contempt of court.

5. With regard to paragraph No.11, which speaks about Clock Towers/*Ghanta Ghars* in different cities having heritage value, a complete report shall be submitted before the next date of hearing including progress work on Lansdowne Bridge Sukkur.

6. An application under Order I Rule 10 CPC (CMA No.2465/2024 in Suit) with regard to joining of the intervener as plaintiff is allowed. Accordingly, such amended title shall be filed by the plaintiff by arraying the intervener as plaintiff No.2.

7. Counsel for the intervener contends that with regard to posting/appointment of the Director General Antiquities & Archaeology Department, Rules are not framed by the Department and intervener (Abdul Fatah Shaikh) has filed suit, which is pending adjudication. Accordingly, the intervener shall file memo of plaint, with further direction to the Secretary S&GAD to depute any focal person who

shall place on record the appointment criteria of the Director General Antiquities & Archaeology, CTA Department.

8. At this juncture, learned counsel for the plaintiff sought withdrawal of these suits by contending that the applications to this effect bearing CMA No.2264/2024 in Suit No.1968/2023 and CMA No. 2265 of 2024 in Suit No.2019 of 2023 have already been filed. Needless to mention that in the present suits the plaintiff is claiming recovery of amount pursuant to contracts awarded to him and thereafter this Court directed the site inspection reports, which have been brought on record, as well as passed certain directions with regard to the criterion of contract awarding for Antiquities and Ancient Monuments properties, therefore, the present proceedings have become public interest litigations which cannot be withdrawn on the sweet will of the plaintiff(s). In *Jurists Foundation through Chairman vs. Federal Government through Secretary Ministry of Defence and others (PLD 2020 SC 01)*, it was held that a public interest litigation cannot be withdrawn at his/her sweet will. Consequently, instant applications are dismissed.

To come up on 09th April 2024 Needless to mention that this is a part heard case.

J U D G E

Sajid