

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D – 1479 of 2023

(Gul Muhammad Sahito and another versus Province of Sindh and others)

Present:

Mr. Muhammad Iqbal Kalhoro, J.

Mr. Arbab Ali Hakro, J.

Date of hearing : **26.03.2024**

Date of decision : **26.03.2024**

Mr. Ghulam Shabbeer Shar, Advocate for petitioners.

Mr. Ali Akbar Shar, Advocate for respondent No.4, who has filed a statement along with several documents.

Mr. Agha Athar Hussain Pathan, Assistant Advocate General Sindh.

ORDER

Muhammad Iqbal Kalhoro, J. – Petitioner No.1 and 2 claim to be owners of Plots No.31, 47, 48 & 49 and 46, respectively, Block-B situated in M/s Gambat Defence City Housing Scheme, Gambat, which they profess to have purchased from respondent No.4 Arz Muhammad, proprietor of the said housing scheme. When they approached respondent No.3 (Sub-Registrar, Gambat, District Khairpur) for registration of said plots, he issued them relevant fee challans which were duly complied with. Yet he refused to register the documents of aforesaid plots and allegedly demanded bribery instead for fulfilling his obligation in law. By means of this petition, petitioners are seeking directions to him / respondent No.3 to register the sale deeds in respect of aforesaid plots.

2. In response, respondent No.3 has filed comments raising the plea of pendency of a Civil Suit No.21/2022 before the Court of Senior Civil Judge, Gambat in respect of survey numbers over which the subject housing society has been constructed. In the comments, it is also stressed that the Government land is involved in the area occupied by the said housing society, which is duly mentioned in the plaint of the suit pending adjudication, which is why the documents of the plots have not been registered.

3. In view of such factual controversy over the land, over which the subject housing society has been constructed, which is subjudice before the relevant Court of law, we cannot exercise jurisdiction under Article 199 of the Constitution, and give directions to respondent No.3 to register the plots of the petitioners at any cost, not the least when Section 52 of the Transfer of Property Act, 1982, restricts such transfer during pendency of the case. Nonetheless, it may be said that it is a

right of the petitioners that their application(s) for registration of the plots be decided by respondent No.3 in accordance with law and disposed of accordingly. It appears that Sub-Registrar / respondent No.3 has kept application(s) of the petitioners for such purpose pending without passing any order thereon, which has prompted them to file this petition.

4. We, therefore, in view of such position, while **dismissing** the petition, direct respondent No.3 (Sub-Registrar, Gambat, District Khairpur) to decide the application(s) of petitioners for registration of their plots in accordance with law within a period of two (02) months, enabling the petitioners to challenge the same, if aggrieved, before the proper forum, in accordance with law.

The petition, in above terms, is **disposed of**.

J U D G E

J U D G E

Abdul Basit