

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
C. P No. D – 934 of 2018

Date of hearing	Order with signature of Judge
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Hearing of case (Priority)

1. For orders on office objection at flag 'A'
2. For orders on CMA No.5173/2024 (S/A)
3. For hearing of main case

10.10.2024

Mr. Abdul Rasheed Kalwar, Advocate for petitioner along with Khuram Shahzad, DE-LLA, FFC and Brig. Saleem Cheema, RM, FFC, Mirpur Mathelo

Mr. Ahmed Ali Shahani, Assistant AG Sindh along with Dr. Syed Muhammad Ali Shah, Deputy Commissioner, Ghotki, Liaquat Ali Kalhoro, Additional Deputy Commissioner-I, Ghotki and Babar Ali, Assistant Commissioner, Mirpur Mathelo.

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Deputy Commissioner, Ghotki present, as well learned Assistant AG, failed to convince this Court, that how the land already acquisitioned by the predecessor-in-interest of the petitioner, namely Pak Saudi Fertilizer Limited, in respect of which entries (which have been examined from the original record available to the Court) still exist, could have been re-acquisitioned by the Government and that too without cancelling the prior acquisition and return of the compensation paid by the petitioner, if law permitted?

The Court is even not convinced with the acquisition methodology which was initiated by forwarding a summary to the worthy Chief Minister through letter dated 12.09.2017, which clearly suggested that the land was required as approach/right of way was honest demand and the officials acted in a transparent manner as well fairly, and that the true purpose was to use the land as approach/right of way as roads already existed for the government offices, residential area and the hospital for their access to the main road. Not only that the petitioner has been defrauded and the exchequer has been looted, we fear.

We in the given circumstances allow this petition and set aside the Notifications issued under Sections 4, 6 and 17 of

the Land Acquisition Act, 1894 dated 21.02.2018 and 22.03.2018 as void and illegal. The Deputy Commissioner present is directed to clear all the areas which have been so fraudulently taken over and only land bona fide needed for approach/right of way for the facilities which existed as on 12.09.2017, and such land is permitted only to be used for commutation and vehicle transport openly without creating any gates or hindrances therein and that land not be used for any other purposes except approach/right of way. The Award passed under Section 11 of the Land Acquisition Act, 1894 dated 16.04.2018 by respondent No.3 (*available at pages 155 to 157*) is also set aside and respondents are permanently restrained from entering upon petitioner's property, raising construction or permanent structure on the land already acquired by the petitioner as per acquisition order available between pages 77 to 97. Let the records be corrected to enter name of the petitioner instead of Pak Saudi Fertilizers Limited in compliance of the Judgment passed in J.M No.51 of 2002 by this Court at the Principal Seat at Karachi dated 21.11.2002 available between Pages 93 to 97. Let compliance report be furnished to this Court within 30 (thirty) days hereof (through Additional Registrar of this Court) and the possession of the lands being subject matter of Notifications issued under Section 4 of the Land Acquisition Act, 1894 bearing No.Rev.Br-(BSO/-181 of 2018 Mirpur Mathelo dated 21.02.2018, published in The Sindh Government Gazette dated 27.02.2018, Notification under Section 6 and 17 of Land Acquisition Act, 1894 bearing No.PS/Com/rev/23/2018 dated 22.03.2018 and Notice under Section 9(4) of Land Acquisition Act, 1894 along with endorsement and the Award passed under Section 11 of the Act, 1894 dated 16.04.2018 restored to the petitioner and explanation be submitted to the worthy Chief Minister as to how office of the Chief Minister was misguided as excessive land was requisitioned, which was definitely not for the approach/right of way.

Judge

Judge