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ORDER SHEET
IN THE HIGH COURT OF SINDH CIRCUIT COURT LARKANA
Crl. Bail Appln. No. S- 317 of 2012

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection flag 'A'
2. For Katcha peshi.

06.3.2013

Mr. Inayatullah G. Morio, advocate for applicants along with applicants.
Mr. Asif Hussain Chandio, State counsel.

It is the case of the applicants that the applicants pursuant to a decree passed by Court of Extra Joint Civil Judge, Larkana in Civil Suit No.07/1999 acted ~~upon~~ Applicant No.1 despite observation dated 22.5.2003, directed officials on 21.7.2003 that no further transaction be made till the grant of execution application from the Honourable Court and the reference be kept on record verified by tapedar. Learned counsel submits that without prejudice to the allegations raised in the FIR the applicants, prima facie, who were bound to comply with the terms of the decree whether it is exparte or otherwise. Learned counsel submits that the applicants being extra cautious such endorsement referred to above were made and no illegality or irregularity was committed by these official respondents. Learned counsel submits that no case apparently is made out against the present applicants who acted prudently. Learned counsel submit that there is a delay of several years in lodging FIR. Learned counsel submits that the applicants were granted interim pre-arrest bail vide order dated 05.7.2012 and the same may be confirmed on the facts and circumstances of the case referred above.

Learned State counsel submitted that such observation dated 21.7.2003 was made subsequent to the entry made at the directions of the District Officer Revenue dated 22.5.2003 and hence the decree was acted upon without verification which apparently is illegal and unlawful. Learned counsel further submits that there is no illegality and irregularity in the impugned order and as such no case has been made out. Learned counsel further submitted that it is a nonailable offence in terms of Section 5 Act-II of 1947.



I have heard learned counsel and perused the record. It, prima facie, appears that the alleged entry to the effect of one Ali Nawaz entered in record was the only party to the decree passed by the Civil Court which per learned counsel is still holding the field and he has no information as to whether the same has been suspended or set aside. Be that as it may, since the extra caution taken by the applicant No.1 in terms whereof it was observed that no further transaction be made till that grant of execution application from the Hon'ble Court. Even in the absence of such endorsement it is ultimate duty of the applicants or any other official to act strictly in accordance with law and the decree of the Court being a declaratory decree to the extent of land in question, the applicants cannot become an appellate court where they could be given authority to probe and enquire about the authenticity of such decree despite the fact that such decree was confirmed to have been passed by the Court. However, it subsequently came to the fact that such decree was passed "allegedly" on the basis of some bogus sale deed. This question was not before the applicants. In view of the facts and circumstances it has become a case of further enquiry and accordingly I confirm the bail granted to the applicants in terms of order dated 05.7.2012 and the application stands disposed of.


Judge