

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
C.P.No. D-138 of 2017.

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
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1. For orders on office objection 'A'
2. For orders on M.A.No.667/2017.
3. For Katcha Peshi.

22.06.2017.

Messrs Ali Nawaz Ghanghro, and Sarfraz Ali Metlo, advocates for the petitioner.

Mr. Aijaz Ahmed Bhatti, advocate for the respondents No.5 & 6.

Mr. Ashfaq Hussain Abro, advocate for the respondent No.16.

Mr. Ameer Ahmed Narejo, State Counsel.

Comments filed by the respondents No.5 & 6 are taken on record, copy whereof has been supplied to the learned counsel for the petitioner.

Learned counsel for the petitioner at very outset does not press this petition for the time being against respondents No.13 to 16, hence this petition to the extent of the said respondents stands dismissed as not pressed. Office is directed to mention such note in front of the names of said respondents in the title of the petition with red ink.

Learned counsel for the petitioner submits that the brother of petitioner, namely, Gada Hussain Bhatti, who is serving as Forest Guard in Sindh Forest Department and presently posted at Madeji and Behman Blocks of Afforestation Range, Larkana, lodged Forest Office First Report (FOFR) No.9 on 15.06.2015 against the encroachers of Forest land, namely, Akmal son of Anwar Ali Kamario, 2.Usman son of Mohammad Brohi, 3.Mazhar Ali son of Azhar Ali Kamario, 4.Waqar Ali son of Azhar Ali Kamario and 5.Nek Mohammad Brohi son of Mohammad Brohi under Section 63(c) (26-H), of Forest Act, 1927 & 506/2 PPC, wherein the aforementioned accused persons were declared absconders and the case bearing Crime No.163/2015 arisen out of the said FOFR was ordered to be kept on dormant file by the learned Judicial Magistrate-II,

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Ratodero, vide order dated 23.11.2015. Learned counsel further submits that the brother of the petitioner also lodged FOFR No.2 on 14.02.2015 for illegal encroachment over the forest land against Dur Mohammad and 13 others accused persons, which is pending adjudication. Learned counsel also submits that few months back a Constitutional Petition No.D-228/2016 was filed by one Mohammad Umar, before this Court for vacation of encroachment and removal of illegally constructed houses in Madeji and Behman Blocks, wherein the Additional Registrar of this Court was appointed as Commissioner to visit the said forest and submit his report, who submitted his report revealing that about 614 acres of Forest land was under encroachment, hence this Court, vide order dated 17.02.2016, directed the District Forest Officer Larkana, Mukhtiarkars, Garhi Yaseen and Ratodero, SHOs Jabir Shaikh, Tajo Dero and Naudero/Ratodero to get the encroached area of said forest vacated; to destroy Pakka constructions and to confiscate the sugarcane and paddy crop grown on the forest land illegally, vide order dated 17.11.2016. Learned counsel submits that in retaliation the encroachers of the forest land who are big guns of this part of the Province lodged a false case against the brother of Mohammad Umar, the petitioner of C.P.No.D-228 of 2016, namely, Abdul Ghani bearing Crime Nos.72/2016 & 74 of 2016 at Police Station Madeji under section 324, 34, PPC and 23(i)(a) of Sindh Arms Act 2013 respectively, on that Mohammad Umar filed C.P.No.D-3139 of 2016 before this Court for holding an impartial enquiry, which was allowed by this Court, vide order dated 20.12.2016, and Inspector Abdul Qudoos Kalwar was deputed to conduct an impartial enquiry into the matter and to submit his report; the said police officer vide his report dated 05.01.2017 after conducting enquiry submitted his report revealing that the dispute of petitioner Mohammad Umar Jeho was running with Azhar Khan Kamariyo, over the forest land and due to that reason Azhar Khan Kamariyo with help of police registered said false cases against the said petitioner's brother Abdul Ghani Jeho with *mala fide* intention.

The learned counsel submits that encroachers of the forest land; thereafter, managed to lodge a false FIR bearing Crime No.9/2017 under section 9(c) of Control of Narcotic Substances Act against Gada Hussain Bhatti, Forest Guard posted as In-charge Madeji and Behman block of afforestation Range Larkana with ill-will on 24.01.2017. As such Gada Hussain filed Crl. Misc. Application No.116/2017 before the Court of Sessions Judge, Larkana, for seeking direction for the transfer of the investigation of said Crime No.9/2017 whereupon the learned Sessions Judge vide order dated 31.01.2017 directed the DIGP Larkana Range to depute any other honest and God fearing police officer not below the rank of Inspector for the purpose of impartial investigation into the matter within one month, but instead of transferring the investigation as per order of Sessions Judge, DIGP, Larkana constituted a JIT vide order dated 09.02.2017 comprising of DSP Yar Mohammad Rind, SDPO Civil Line (Chairman), Inspector Sartaj Ahmed Jagirani, SHO PS Waleed (Member), SIP Sajjad Hussain Bhatti of PS Waleed (Member) and SIP Mohammad Saleem Pathan, SHO PS Sachal (Member) in violation of the order of learned Sessions Judge, Larkana. Learned counsel submits that none of the police officials of the said JIT commands good reputation in police department, hence this petition has been filed by the petitioner for the appointment of any God fearing honest police officer to conduct impartial inquiry into the matter as the brother of the petitioner is being victimized by the hands of encroachers of the forest land who being influential political person of this part of the Province have great influence even on the local administration.

The learned State Counsel records no objection for the appointment of any officer of the police department to conduct impartial inquiry into the matter.

We are conscious of the fact that about 1900 acres of the forest Division Larkana, which was under illegal occupation of the forest encroachers as per the report of Additional Registrar of this Court filed in C.P.No.D-

228/2016, 982/2012 & 1194/2010 was got vacated from the clutches of illegal occupants/encroachers and its possession was restored in favour of Forest Department so also of the fact that earlier an FIR was registered against the brother of petitioner Mohammad Umar of C.P.No.D-228/2016, and in that FIR, the inquiry was conducted by Inspector Abdul Qudoos Kalwar and his inquiry report speaks volumes. Now a case has been registered against the official of the Forest Department who performed his duties for the recovery of Forest encroached land from the encroachers, therefore, we depute, Inspector Abdul Qudoos Kalwar, presently posted in DIGP Office Larkana, to conduct impartial enquiry into the matter and submit his report within three weeks before the trial Court and compliance report of the order, however, should also come on the record of this Court through Additional Registrar of this Court. Petition stands disposed of.

Direction

- For Order on Report/alt/ 25-09-2017
- M.Y. Panthwar/**
- Enquiry Report & Application of Gada Hamir Bhatti as per "B & C"