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ORDER SHEET  
**IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.**  
 Criminal Misc. Application No. S- 275 of 2017

DATE \_\_\_\_\_ ORDER WITH SIGNATURE OF JUDGE \_\_\_\_\_

Petitioner : Moran Khatoon W/o. Khan Muhammad,  
 through Mr. Athar Abbas Solangi, Advocate

Respondents : The Mukhtiarcar (Revenue) Warah & others,  
 No.1 to 4 and 6 through Mr. Khadim Hussain Khoonharo A.P.G.

Respondent No.5 : Muharram Ali S/o. Bahar Khan,  
 through Mr. Muhammad Aslam Mughari, Advocate,  
 and on his behalf, Mr. Abdul Wahid Khushk

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 Date of hearing : 15-12-2017  
 Date of order : 15-12-2017  
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**ORDER**

**ZAFAR AHMED RAJPUT, J.-** Respondent No.5 herein filed Criminal Misc. Application bearing No. 754 of 2015 (New Number), before the Sessions Judge, Kamber-Shahdadkot @ Kamber Larkana, alleging therein that her mother-in-law, namely, Mst. Amlee and Mst. Sardaran, both daughters of Ghulam Muhammad, were holding 10 paisa share in agricultural land bearing No. 158, admeasuring 6.19 acres, situated in Deh Bukejani, Tapo Lalu Raunk, and such record of right was mutated in their names. It was further alleged that Mst. Amlee and Mst. Sardaran have expired and respondent No.5 being legal heir approached to respondent No.1 to change the Foti Khata in his favour but he demanded illegal gratification. Hence, he sought through his said application directions to respondents to change the foti khata of deceased Mst. Amlee and Mst. Sardaran in the names of their legal heirs.

2. Sessions Judge, Kamber- Shahdadkot @ Kamber, vide order dated 23.11.2015, disposed of the said Criminal Misc. Application, upon the statements of Mukhtiarcar (Revenue) Warah and Tapedar, Tapo Lalu, Taluka Warah that they would resolve the grievance of the applicant. It is against that order; the instant Criminal Misc. Application has been maintained by the present applicant.

3. Learned counsel for the applicant has contends that the application filed by the respondent No.5 was itself not maintainable in law as the same does not disclose under what provision of law it was filed for invoking the jurisdiction of Sessions Judge Kamber-Shahdadkot @ Kamber in a dispute of civil nature. He added that so far the scope of section 22-A (6) (iii), Cr. P.C. is concerned, the relief sought by the respondent No.5 does not come within it and; as such, the Sessions Judge has travelled out of his jurisdiction while entertaining the application of respondent No.5 and passing the impugned order, which is being illegal and without jurisdiction is liable to be set aside to secure the ends of justice.

4. It may be relevant to observe here that the respondent No.5 on being served engaged Mr. Muhammad Aslam Mughari, advocate who filed his vakalatnama on 05.06.2017 but he did not appear before the Court even on a single date of hearing, likewise the respondent No.5 despite serving never appeared before this Court. Today during the course of hearing of this application, Mr. Muhammad Aslam Mughari, Advocate appeared and sought adjournment without disclosing any just cause.

5. The learned A.P.G., however, concedes the arguments of learned counsel for the applicant and does not support the impugned order.

6. It is an admitted position that the application filed by the respondent No.5 before the Sessions Judge, Kamber-Shahdadkot @ Kamber does not disclose the provision of law under which it was maintained, but the impugned order reflects that it was passed in the capacity of Ex-officio Justice of Peace. An Ex-officio Justice of Peace Sessions Judge and nominated Additional Sessions Judge in a relevant Districts, deriving jurisdiction under section 25, Cr. P.C. has the power under section 22-A (6)(iii) Cr. P.C. to issue appropriate directions to the police authorities concerned on a complaint regarding non-registration of criminal case, transfer of investigation from one police officer to another and neglect, failure or excess committed by a police authority in relations to its


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function and duties. While, section 22-B, Cr. P.C. defines the duties of Justice of Peace. It may be observed that that an Ex-Officio Justice of Peace is not a court as envisage under section 6 of the Cr. P.C. or the relevant provisions of C.P.C. In other words, powers and duties of Ex-Officio Justice of Peace under section 22-A Cr. P.C. are only administrative and purely ministerial in character, which do not involve any jurisdiction that can be termed as judicial in nature or character.

7. As such, section 22-A Cr. P.C., does not confer any jurisdiction on the Ex-officio Justice of Peace to entertain any complaint/ application aimed to pass any direction to a person or official relating to his duties in respect of any dispute relating to any immovable property. It is not reflect from the available record as to how and with what authority the Sessions Judge, Kamber-Shahdadkot @ Kamber entertained the application of respondent No.5 as Sessions Judge or even as Ex-officio Justice of Peace, exceptionally when it reveals that the dispute between the parties does not fall within the defined domain of Ex-officio Justice of Peace under section 22-A Cr. P.C., and under such situation, the application of respondent No.5 should have been dismissed by him at limine stage for want of jurisdiction, directing him to adopt proper course to redress his grievance.

8. For what has been discussed above, this Criminal Misc. Application is allowed and the impugned order passed by the Sessions Judge, Kamber-Shahdadkot @ Kamber on 23.11.2015 is hereby declared as without lawful authority and of no legal effect and, resultantly, the same stands set aside.

9. This order shall; however, not come in the way of passing an order in accordance with land revenue laws by the respondent No.1 upon the application of respondent No.5, if so filed, so also approaching the respondent No.5, alternatively in accordance with law, the competent civil court under usual mode of proceedings to redress his grievances.



JUDGE