

ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.

C.P.No.D- 304 of 2017

DATE	ORDER WITH SIGNATURE OF JUDGE
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02.10.2017.

Mr. Noor Ahmed Memon, Advocate for the petitioner.
Mr. Zeeshan Ali Memon, Advocate for private respondents.
Mr. Allah Bachayo Soomro, Additional A.G.

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Petitioner is claiming to be the owner of Survey No.80, 85 and 313 situated in Deh Homkey Taluka Tando Muhammad Khan. His case is that he has not been provided water to irrigate his lands in accordance with his share and in this regard has alleged that private respondents are causing hindrance to it as they have encroached upon the irrigation channel through which the petitioner was being supplied water.

Mr. Zeeshan Ali Memon, counsel for private respondents has denied the case of the petitioner. He further states that in order to pressurize the respondents, the petitioner has filed this false petition.

Mr. Allah Bachayo Soomro, learned A.A.G. has read out the comments filed by respondent No.3, according to which, the petitioner has misrepresented the picture and most of the allegations are false and fabricated. However, in Para No.4 and 6, it has been stated that the private respondents No.6 to 9, who are also the relatives of petitioner, have made some construction in some portion of Survey No.81 and 82 of said Deh and have covered the petitioner's sanctioned Branch to irrigate Survey No.79, 80 and 313, as a result thereof the petitioner is facing difficulty in getting the water; and maintaining Hassan Ali Branch as required u/s 21 of Sindh Irrigation Act, 1879. The comments also show that the irrigation authorities wrote letters to the police to remove such encroachment but no action was taken. We have also seen that the petitioner before filing of this petition had filed a F.C. Suit No.50 of 2013 against the same respondents on the same cause of action which he did not press subsequently and filed this petition. In the said back drop, we have serious reservations about the maintainability of this petition. However, since in the official comments it has been reported that the private

respondents have encroached upon the irrigation channel supplying water to the petitioner causing hindrance in the flow of water to the lands of the petitioner and the irrigation authorities being custodian of the irrigation channels are required under the law to remove such encroachments, we with the consent of all the parties dispose of this petition with directions to the Irrigation Department to remove the alleged encroachments, if any, from Hassan Ali Branch Deh Homaki in accordance with law and in case while doing so, some support from police is required, SSP Tando Muhammad Khan shall provide the same.

The petition in above terms stands disposed of.

JUDGE

JUDGE

Tufail