

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

HCA No.300 of 2017
Alongwith
HCA No.271 of 2017

Order with signature of Judge(s)

Present:
Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Muhammad Osman Ali Hadi

Disposed of case

- For hearing of CMA No.1034/2024 (Contempt Application)

22-04-2025

Mr. Nasrullah Malik, Advocate for the appellants
Mr. Izhar Alam Farooqui, Advocate for respondent No.9
Mr. Pervez Mastoi, AAG

ORDER

Muhammad Iqbal Kalhoro, J:- We have heard the parties. This contempt application has been filed on 01.04.2024 on the ground that the alleged contemnors have violated directions given by this Court vide judgment dated 11.09.2019 in Para-7 to the SSP and Deputy Commissioner concerned to ensure that no fresh encroachment is raised on the suit land and if any construction is raised, same should be dealt with as per the mandate given through the order dated 13.05.2017.

2. This contempt application has been filed against nine contemnors with the allegations that further encroachment has been made by them, which is in violation of this Court's orders.

3. We have seen that this Appeal was preferred against the orders dated 13.05.2017 and 17.05.2017 deciding some miscellaneous applications in Civil Suit No.1150 of 1991, including an application of the appellants under order I rule 10 CPC seeking impleadment as respondents. While deciding that application, the learned Divisional Bench has observed that appellants were not eligible to be made party

in the suit, as *prima facie* they were encroachers. It was in this context the above directions were issued to the SSP. This application however has been filed after five years of the order said to have been violated. Alongwith application, affidavit of one Izhar Alam Farooqui has been filed, except that, no evidence has been shown that any encroachment has been made on the subject property. Even otherwise, the question whether any encroachment has been made by the appellants over the subject property cannot be decided in a contempt application, as it requires evidence. *Prima facie* no directions were issued to all the contemnors which they have violated. More so, if any encroachment has been made, it can independently be dealt with under the relevant provisions of law and not in an appeal filed against a decision in some miscellaneous applications.

4. We have also seen that in this matter directions were issued to the police officials, but nothing has been provided to show that before filing this application the applicants had approached the concerned SSP and DIGP with the order of the Court to seek their help. Therefore, we find this application as not maintainable, and accordingly dismiss it.

JUDGE

JUDGE