

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
C. P. No.D-1253 of 2016

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| Date of Hearing | ORDER WITH SIGNATURE OF JUDGE |
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25.01.2018.

1. For orders on office objections.
2. For orders on maintainability of
M. A. No.7466/16.
3. For orders on maintainability.

Mr. Ghulam Dastagir A. Shahani, advocate for petitioner.
Mr. Abdul Hamid Bhurgri, Addl. A.G.

Petitioner seems to be aggrieved by a notice dated 08.10.2016, issued to him by the Mukhtiarkar, Revenue, Taluka Larkana/Authorized Anti-Encroachment Officer, Larkana, ordering him to remove the illegal encroachments on the road from Rice Canal to Stadium via Old Bus Stand under subsections (1) & (3) of Section 3 of Sindh Public Property (Removal of Encroachment) Act, 2010 and Rules 2010. In this aspect, three days time was granted to the petitioner to remove such encroachment.

In the petition, the petitioner has claimed to be owner of a plot No.28, which, according to him, he purchased from the legal heirs of Mistry Ali Nawaz, the alleged original allottee of the said plot, where he has made some construction, which the respondents under the garb of above said notice intend to demolish without due course of law.

In rebuttal, the respondents have filed the comments. Respondents No.1 and 2, in reply to para No.5, have unanimously stated as under:-

"It is submitted that the contents of this para are admitted to the extent that it is a fact that answering respondent No.01 (my predecessor) issued Notices to all the Encroachers under the Removal of Encroachment Act, 2010 and Rules, 2010 for construction of New Road on the Path of Rice Canal to Old Bus Stand in order to facilitate General Public of Larkano or its surrounding areas. Accordingly, most of the Encroachers removed their encroachments viz. Shops, Houses etc. however, some of the people of the area produced leased registered documents. Looking to the documentary evidence and its validity/ genuineness provided by the inhabitants of the area including petitioner, they will be dealt with according to the Land Acquisition Act, 1894."

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Respondent No.6/Mayor, Municipal Corporation, Larkana in his comments has stated that plot No.28, measuring 2400 sq. feet was allotted to mechanic Ali Nawaz for the construction of a garage for auto-mechanical purpose only. Subsequently, the said plot was transferred to the petitioner through a registered sale deed.

Mr. Abdul Hamid Bhurgri, learned Addl. Advocate General has submitted that petitioner's claim over the plot would be verified, as is stated by the respondents in the comments and then in the light of such verification he would be dealt with in accordance with law.

However, Mr. Shahani has shown apprehension and submits that some protection may be awarded to the petitioner in case any adverse finding is recorded against him in the process of verification of documents of his said plot. We are of the view that the statement of learned Additional Advocate General coupled with the comments filed by the respondents are sufficient to allay his apprehension of not to be treated according to law in the verification process or subsequently thereafter. Because it has been specifically stated before us that the claim of the petitioner agitated by him in the petition will be verified, its genuineness determined and he would be then dealt with in accordance with law, which would mean hearing him before taking any adverse action against him.

The Petition stands disposed of in above terms along with listed application.

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25-1-2018
JUDGE

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JUDGE 25-1-2018