

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D – 1461 of 2023

(Jabir Hussain Mahar versus Province of Sindh & others)

C. P. No. D – 1463 of 2023

(Bagh Ali Khan Mahar versus Province of Sindh & others)

Present:

Mr. Muhammad Iqbal Kalhoro, J.

Mr. Arbab Ali Hakro, J.

Date of hearing : **16.01.2024**

Date of decision : **16.01.2024**

Mr. Ghulam Shabber Shar, Advocate for petitioners.

Mr. Sanwan Khan Jagirani, Advocate for respondents-SIDA.

Mr. Zulfiqar Ali Naich, Assistant Advocate General Sindh.

ORDER

Muhammad Iqbal Kalhoro, J. – Petitioners, father and son inter se, have filed these petitions seeking directions to respondents / Irrigation officials to sanction private pumping machines at RD-61 and RD-82, Left Side along Upper Nara Canal in their favour for getting irrigation water from the canal for their lands.

2. Learned Counsel for respondents has filed comments stating that there is no sanctioned pumping machine in favour of the petitioners, but yet they have been taking water illegally by installing subject pumping machines. Against them FIRs No.39 & 47 of 2018 at Police Station Salehpat were also lodged for committing theft of water. Further, there is a ban over sanction of water pumping machines on any canal in the Sindh.

3. Learned Counsel appearing for respondents has submitted that petitioners had earlier filed CPs No. D-1289, 1290 and 1679 of 2018 seeking same relief squarely. In CP No. D-1679 of 2018, when the fact of theft of water by petitioners and others was brought in the notice of the Court, Sessions Judge, Sukkur was deputed to submit a report regarding fate of the FIRs against the petitioners and others involved in theft of water through pumping machines. He submitted through his letter dated 17.05.2021 a report of Civil Judge & Judicial Magistrate-I, Rohri dated 07.05.2021, wherein he had confirmed the installation of

several illegal pumping lift machines, which thereafter, in an operation by Irrigation authorities, were removed.

4. Learned Counsel further submits that the above-mentioned petitions were dismissed by this Court when none had appeared on behalf of the petitioners and this Court had realized that the relief sought by the petitioners was not permissible by law and was hit by the ratio laid down in the judgment in **CP No. D-1043 of 2018** (Re: Khadim Hussain Arain and others v. Province of Sindh and others), whereby directions were issued for removal of all illegal pumping machines. Against such compelling facts, we have found nothing in the petitions, which may boost case of the petitioners on merit or make it even maintainable, except some endorsement on an application, purportedly by one of the petitioners namely Jabir Hussain, by Chief Minister Sindh for sanction of the private pumping machine on 09.10.2018 and the correspondence pursuant to which. However, it has not been clarified that under what law Chief Minister Sindh is competent to approve such sanction, which is apparently in violation of relevant law and the directions of this Court in various petitions against installation of pumping machines over the irrigation canals.

5. This being the position, we find the petitions devoid of merits and **dismiss** them accordingly along with pending application(s), if any. Office to place a signed copy of this order in the captioned connected matter.

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Abdul Basit