

IN THE HIGH COURT OF SINDH, KARACHI  
C.P. No.D-7256 of 2022  
[Mir Data Chandio & 2 others v. Province of Sindh & others]

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

- 1.For order on office objection Nos. 05 & 12
- 2.For hg of Misc. No.30704/22
- 3.For hg of main case

25.04.2025.

Mr. Ziaul Haq Makhdoom, advocate for petitioners.  
Mr. Muhammad Hisham Mahar, Assistant Advocate General along  
with Ghulam Ali Wassan, Mukhtiarkar, Gulzar-e-Hijri, Scheme-33,  
Karachi.

**O R D E R**

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**MUHAMMAD IQBAL KALHORO J:** Petitioners have impugned an order dated 22.11.2022, passed by Tribunal Anti-Encroachment, Karachi in Suit No.11 of 2022 allowing an application, with consent, under Order 18 Rule 18 read with Section 151 CPC for inspection of the property and handing over of its custody to the Commissioner Karachi.

2. Learned counsel for petitioners submits that on this very property two civil suits are pending before the relevant Senior Civil Judge(s), in which, petitioners are the defendants. One suit has been filed by Pakistan Post Office Employees Cooperative Housing Society and the other by one private party seeking declaration and cancellation of sale deed executed in favour of the petitioners. In the suits, the interim orders are operating with direction not to create any third party interest over the property. Learned counsel further submits that the Tribunal Anti-Encroachment has jurisdiction limited to state or public properties, whereas, the property involved in this matter is a private property which the petitioners had purchased from a private entity; hence, the Tribunal

Anti-Encroachment has no jurisdiction to entertain the application and decide it, that too without even hearing the petitioners whose stake is involved.

3. Learned AAG has not disputed the fact that the impugned order has been passed without hearing the petitioners and even the petitioners have not been made party in the proceedings before the Tribunal.

4. In the given facts and circumstances, we set aside the impugned order, remand the matter to the Tribunal Anti-Encroachment to issue notices to all the parties first, who are either plaintiff(s) or defendant(s) in the two suits and after hearing them all decide the jurisdiction issue first and then merits of the application. Petitioners are directed to appear before the Tribunal Anti-Encroachment on the next date, the notice of which shall be given to them, with the copies of the complaints in both the suits enabling the Tribunal to issue notices to all the parties. The whole exercise shall be completed within two months. Mukhtiar, Gulzar-e-Hijri, Scheme-33, Karachi, who is present in Court, shall also be heard, if necessary, to determine nature and status of the subject property. Meanwhile, status quo shall be maintained by the parties.

The petition is accordingly disposed of in above terms along with pending application.

JUDGE

JUDGE

HANIF