

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

C.P No.D-2158 of 2013

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For Katcha Peshi.
2. For hearing of MA 10395/13
3. For hearing of MA 100/14
4. For hearing of MA 3822/17

17.10.2017.

Mr. Ayatullah Khowaja, Advocate for petitioners.

Mr. Naimatullah Soomro, Advocate for respondent No.7.

Mr. Allah Bachayo Soomro, A.A.G alongwith Ali Syed Madad Ali Shah advocate for Parhyar, Assistant Engineer Jamrao Division Irrigation.

1 to 3. Deferred.

4. Through this application the petitioners want to array M/S Al-Dahra Agriculture Company Pakistan (Pvt) Ltd, a company claimed to be registered under Company Ordinance 1984, having registration office at Kh-e-Behria 67, Ph-V DHA Karachi in the petition as Respondent No.8 on the ground that the said company being beneficiary of the subject watercourse is necessary party and without its presence a just and proper decision would not be made.

Mr. Naimatullah Soomro learned Counsel appearing for respondent No.7 has opposed this application on the grounds that the said company cannot be made as party in the proceedings in view of bar provided under section 86 C.P.C. According to him, the petitioner has not filed articles of the association of said company to appreciate whether or not said company is registered under the Companies Ordinance, 1984.

Mr. Allah Bachayo Soomro, A.A.G. has adopted the arguments of Mr. Naimatullah Soomro and has opposed this application.

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We have noted that section 86 C.P.C is shown deleted by State Immunity Ordinance, 1981, in Tenth Edition 2010 of Civil Procedure Code by Aamer Raza, and Civil Procedure Code by M. Mahmood Volume-I 2010. Additionally, the proposed respondent is the company working on the Pakistani soil and is claimed to be registered under the Companies Ordinance, 1984. Besides, it is asserted in the application in hand that the said company is benefitting from the watercourse, which is central to the controversy in hand. Therefore, the proposed respondent is necessary and proper party to be impleaded and unless said company is made as respondent in the proceedings, a just and proper conclusion would not be reached.

We in the facts and circumstances allow this application. Let M/S Al-Dahra Agriculture Company Pakistan (Pvt) Ltd, be made as respondent No.8. The petitioner is directed to file amended title within three days of today whereafter the office shall issue notice to the respondent No.8.

To come up on 21.11.2017. Interim order passed earlier to continue till next date of hearing.

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

C.P No.D-968 of 2012

DATE	ORDER WITH SIGNATURE OF JUDGE
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For Katcha Peshi.

18.10.2017.

Mr. Ahsan Gul Dahri, Advocate for the petitioners.

Mr. Allah Bachayo Soomro, A.A.G.

Petitioners are brothers inter-se and are residents of village Kariri Dahri (Haji Abdullah Dahri), Taluka Dour, District Shaheed Benazirabad. They are seeking appointments on lower grade posts in the Education Department on the ground that they have donated a plot admeasuring 10000/- sq. ft. for the construction of building of school in their village.

2. Learned Counsel for the petitioners has reiterated the said facts in his arguments and has stated that since the petitioners have donated the plot for building of the school, they are entitled to priority in the appointments on the lower grade posts in the said School.

3. On the other hand, learned A.A.G has opposed this petition and has relied upon the case of *Government of Sindh and others v. Loung Khan Rajper etc* (Civil Appeals Nos.19-K to 50-K of 2015).

4. We have considered the submissions of the parties and perused the material available on record.

5. The issue of appointments of the persons against donating the plot for schools has already been decided by the Honourable Supreme Court in Civil Appeals referred to above, and while discussing such appointments, the Honourable Supreme Court has referred to its earlier judgment in the case of *Hameedullah and 9 others vs. Headmistress, Government Girls School, Chokara, District Karak and 5 others* (1997 SCMR 855), in which it has been held that the appointment is to be based on merits and if on

merits the donor or his nominee is at par with other candidates only then preference can be given to him.

6. Although learned Counsel for the petitioners has urged before us that his case is distinguishable to the one already decided by the Honourable Supreme Court but he has not been able to specify the difference. He has not been able to show either that the petitioners have participated in the selection process for the posts they are seeking appointment on and were at par with the other candidates, but yet were refused appointments to appreciate his contention that the petitioners should have been given preference on the basis of their donating the plot for the school.

7. Therefore, we are of the view that this petition is devoid of merits and is dismissed accordingly alongwith listed application. However, the petitioners would still be at liberty to participate in the selection process for the appointment on the said posts and if they are found to be at par with the other candidates in all respects, they may be given preference.

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