

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.

Constt: Petition No.D- 65 of 2024.

(Saeed Ahmed v. Mukhtiarkar, Taluka Ratodero & others)

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
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Before:

Muhammad Saleem Jessar, J;
Adnan-ul-Karim Memon, J

1. For orders on M.A No.2578/2024. (Contempt Appln)
2. For orders on M.A No.2553/2024 (Review).

Date of hearing and Order: 12.3.2025.

Mr. Mazhar Ali Mangan, Advocate for the petitioner.

Mr. Liaquat Ali Shar, A.A.G assisted by Mr.Aftab Ahmed Bhutto,
Asstt: A.G. a/w Sarmad Hussain, Assistant Commissioner,
Ratodero and Mehmood Ali Panhwar, Mukhtiarkar Ratodero.

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ORDER

ADNAN UL KARIM MEMON-I.:- The petitioner initially sought a court order directing the respondents to issue a Sale/Fard Certificate for his legally owned land, Survey No. 158 (4-15 acres), in Larkana, which is already registered in his name. This court disposed of the petition on October 21, 2024, by ordering the petitioner to meet with the Mukhtiarkar. Recognizing the petitioner's undisputed ownership, the court then directed the Mukhtiarkar to complete the necessary legal actions within three days, with the threat of contempt proceedings for non-compliance. However, the respondent, the Mukhtiarkar, narrated a novel story contending that the subject land is central government land. This assertion has been disputed by the petitioner on the premise that he is a lawful owner of land Survey No. 158 in Larkana, purchased via a registered sale deed in 2005 and duly mutated in his name in 2006, seeks a court order for the issuance of a Sale/Fard Certificate. The petitioner alleges that Respondent No. 2, a revenue official, demanded a Rs. 500,000 bribe for the Sale certificate. Upon refusal, Respondent No. 2, in collusion

with a potential buyer, Abdul Haque Soomro, falsely claimed the land was government property in an Anti-Corruption Establishment inquiry, attempting to usurp the petitioner's land. The petitioner has repeatedly requested the Sale/Fard Certificate, but the respondents have refused. This refusal is deemed illegal and an abuse of power, necessitating this petition for relief.

2. The A.A.G. presented historical land records for Survey No. 158, Deh Chajjra, Taluka Ratodero, revealing a complex ownership history and submitted that initially, in 1955, the land was recorded under Hindu owners. In 1985, Qasim s/o Essa acquired the land through a government allotment claim (1973), though this record is in poor condition. Also in 1985, the land was entered as belonging to the Central Government. In 1990, Muhammad Ismail and Habibullah acquired the land through an oral transfer from Qasim s/o Essa. In 1998, Gul Hassan Ghanghro purchased the land via a registered sale deed from Muhammad Ismail and Habibullah. In 2006, Saeed Ahmed (the petitioner) purchased the land via a registered sale deed from Gul Hassan Ghanghro. The Mukhtiarkar, before issuing the Sale/Fard Certificate, attempted to verify Qasim s/o Essa's allotment claim with the Rehabilitation Branch of Deputy Commissioner Larkana's office. However, due to staff shortages, verification was not possible. The A.A.G. requests the court to direct the verification of Qasim s/o Essa's allotment claim from the Rehabilitation Branch to protect government interests. The A.A.G. defers comment on the petitioner's allegations of bribery and collusion, stating those are matters for the relevant respondent to address. The A.A.G. states that the official defendants are duty-bound to protect government land.

3. We have heard learned counsel for the parties on the listed applications and perused the record with their assistance.

4. The Assistant Commissioner highlighted that the Standard Operating Procedure for land record entries dictates that entries from the Dakhil Kharij Register not transferred to the V.F-VII-A records during the 1985-86 rewriting process are subject to appeal. If a landowner disagrees with a Revenue Officer's decision, he/she can file an appeal

under Section 161 of the Sindh Land Revenue Act, 1967. Given that V.F-VII-A records were created by Mukhtiarkars and sometimes approved by Assistant Commissioners, appeals against missing entries should be directed to the Deputy Commissioner (Collector). Delays in filing appeals can be excused under Section 5 of the Limitation Act, provided the delay was not intentional and there are valid reasons. However, appellate authorities must exercise caution due to the risk of fraudulent claims, particularly concerning government land.

5. We have observed that Rule 41 of the Land Revenue Rules, 1968, outlines a clear process for issuing sale certificates. This process mandates that when a complete application, as per the Land Revenue Act, 1967 and Land Revenue Rules, 1968, is submitted to the Mukhtiarkar (Revenue), they must take action. If the application is satisfactory, the Mukhtiarkar must notify all relevant landowners. The Mukhtiarkar must then issue a reasoned order, either approving or denying the application. If the application is denied, the applicant can pursue an appeal, revision, or review as provided by the Land Revenue Act and Rules.

6. Article 199 of the Constitution, inter alia, provides that the High Court may exercise its powers thereunder only "if it is satisfied that no other adequate remedy is provided by law". It is well-settled that if there is any other adequate remedy available to the aggrieved person, he must avail and exhaust such remedy before invoking the Constitutional jurisdiction of the High Court, whether such remedy suits him or not.

7. In our view, the doctrine of exhaustion of remedy envisaged in Article 199 prevents unnecessary litigation before the High Court. In our humble opinion, one of the reasons for introducing the doctrine of alternate remedy was to avoid and reduce the number of cases that used to be filed directly before this Court. In our humble opinion, one of the reasons for introducing the doctrine of alternate remedy was to avoid and reduce the number of cases that used to be filed directly before this Court, and at the same time to allow the prescribed lower forum to exercise its jurisdiction freely under the law. Moreover, if a person moves this Court without exhausting the remedy available to him under the law at the

lower forum, not only would the purpose of establishing that forum be completely defeated, but such person will also lose the remedy and the right of appeal available to him under the law. Under Article 10-A of the Constitution of the Islamic Republic of Pakistan, 1973, for the determination of civil rights and obligations or in any criminal charge against him, every citizen is entitled to a fair trial and due process. Therefore, it follows that fair trial and due process are possible only when the Court/forum exercises jurisdiction strictly under the law. It further follows that this fundamental right of fair trial and due process in cases before this Court is possible when this Court exercises jurisdiction only in cases that are to be heard and decided by this Court and not in such cases where the remedy and jurisdiction lie before some other forum. If the cases falling under the latter category are allowed to be entertained by this Court, the valuable fundamental right of fair trial and due process of the persons/cases falling under the former category will certainly be jeopardized.

8. Another shocking yet unfortunately common example of petitions alleging harassment is allegations against Government officials, such as officials of Revenue Departments. The allegations in such cases inter alia are, at the instance of the private party; the Sale Certificate is not being issued, demarcation of land is not being done, mutation is not being effected; etc. Such petitions are filed before this Court even though the remedies of the acts complained of lie with the Revenue authorities, however, the Revenue authorities are reluctant to perform their duties, and this is the reason the petitions are piling up before this court. It is well-settled law that a registered sale deed cannot be called in question by the Revenue Authorities and the said instrument can only be canceled by the competent Court of Civil jurisdiction. However, the Revenue Authorities are still reluctant to issue sale certificates based on registered instruments, which is apathy on their part. This issue needs to be looked into by the Senior Member Board of Revenue. However, in the present case, the respondents have cited the reference that though the land in question has been transferred in the name of the petitioner through

registered instrument, however, certain entries are still in the name of the Central government, which issue needs to be looked into by the Deputy Commissioner concerned, as per SOP.

9. Primarily, this practice should be curbed and Mukhtiarkar/ Assistant Commissioner concerned shall strictly follow the law and guidelines issued by the Board of Revenue in this regard. However, it has been noticed that they are engaging in certain sorts of affairs disturbing the public at large, who appear before them. Such practice ought to have been stopped as directed earlier in various petitions. However, nothing has been done, and the Mukhtiarkars concerned are still indulging in such illegal practices, as pointed out by the petitioner, the Chief Secretary, Sindh shall take prompt action against the concerned Mukhtiarkars and their matter shall be referred to the Provincial Anti-Corruption without further delay. Besides, disciplinary action shall also be taken against the concerned Mukhtiarkars/ Assistant Commissioners who are reluctant to entertain the litigants regarding the resolution of their issues. All the Mukhtiarkars/ Assistant Commissioners of the Province of Sindh are directed to ensure their availability in their respective offices to sort out the matters of the public at large within their domain and take prompt action on the applications of the aggrieved persons; if they appear before them, so far as their issues about issuance of Sale Certificates, Demarcations, Foti Khata Badal and other ancillary issues are concerned. This direction shall not be ignored at all. In case of failure of their duties, appropriate action in terms of Article 204 of the Constitution shall be taken against the Mukhtiarkars/ Assistant Commissioners concerned, if the aggrieved party appears before this Court and raises the hue and cry, on the aforesaid points. The Senior Member Board of Revenue and Chief Secretary, Sindh, shall be held responsible if such illegal practice continues to happen.

10. In view of the above, Deputy Commissioner, Larkana is directed to decide the issue of issuance of a Sale Certificate in respect of the subject property of the petitioner after hearing all concerned within two weeks positively. Learned counsel for the petitioner submits that he will avail

the remedy available under the law if an adverse order is passed. This proposal seems to be reasonable and acceded to.

11. The instant Miscellaneous Applications stands disposed of in terms of the preceding paragraphs.

~~JUDGE~~ JUDGE
12/8/2025