

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
C. P. No.D-281 of 2023
(Niasr Ahmed v. P.O Sindh and others)

Date of Hearing	ORDER WITH SIGNATURE OF JUDGE
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BEFORE:

Mr. Justice Muhammad Saleem Jessar.

Mr. Justice Adnan-ul-Karim Memon.

Date of hearing and Order : 18.03.2025.

Mr. Sharjeel Sattar Bhatti, advocate along with the petitioner.

Mr. Liaquat Ali Shar, Addl. A.G., along with Fahad Ali, ADC-II Larkana on behalf of DC, Larkana, AZhar Ali Mahessar, XEN Northern Dadu Division, Larkana, Nadeem Imtiaz Jafferri, AXEN Dokri Sub-Division, SIP Ali Gohar on behalf of DSP Dokri and SHO PS Veehar and SIP Ali Dost on behalf of SSP, Larkana.

Mr. Rashid Ali Tunio, advocate for private respondents.

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ORDER

Adnan-ul-Karim Memon, J:- Petitioner seeks directions to respondents No.2 to 6 to restore Water Course 4-L Qaboolo Minor from the clutches of respondents No.8 to 10 immediately enabling the petitioner.

2. An agriculturalist, whose family's livelihood depends entirely on lands designated as Survey Nos. 38 and 63 in Deh Qaboolo, claim that respondents 8-10 have illegally blocked the crucial Water Course 4-L, stemming from Qaboolo Minor. This obstruction has resulted in severe crop damage and jeopardizes the petitioner's survival. Despite persistent efforts to address this issue with both the individuals responsible for the blockage and the relevant government bodies, no corrective measures have been implemented. The petitioner further alleges intimidation by respondents 8-10 and accuses officials of deliberate inaction, implying a corrupt alliance. He urgently seeks court intervention to compel the authorities to reinstate the watercourse and safeguard his land, asserting that all other legal avenues have been exhausted. The private respondents denied the allegations.

3. As directed by this court, an inspection of Survey Nos. 38 and 63 were carried out. The inspection verified the petitioner's land and its reliance on Water Course 4-L for irrigation. Survey No. 63 showed a thriving wheat crop, while Survey No. 38 contained lotus plants. Due to seasonal water scarcity in the 4-L watercourse, the petitioner was using a water pump to irrigate the lotus plants. The irrigation department confirmed that both survey numbers are indeed

irrigated by the 4-L watercourse. However, the petitioner disputes this, submitting that the private respondent has dismantled the watercourse in question, which factum has been denied by the official respondents.

4. A perusal of the record and consideration of contentions of the parties raised before this court has persuaded us to believe that the issue involved in the present petition is the distribution of water to the lands of the parties per the Sindh Irrigation Act through the concerned watercourse and certain encroachment of the watercourse.

5. The Sindh Irrigation Act mandates the Irrigation Department to distribute water equitably. Deprivation of irrigation, a right tied to Article 9 (right to life), allows court intervention. The Act (Sections 16, 17, 21) governs watercourse construction, land acquisition for irrigation, and watercourse owners' rights and responsibilities, including water supply terms.

6. The law, as upheld by the Supreme Court and Division Benches, strictly prohibits encroachments on illegally converted public amenities. Public property must remain open to all, and authorities have a legal duty to prevent its privatization and protect it from unauthorized occupation. The Additional Advocate General has confirmed that all current encroachments will be removed. Furthermore, public access to and use of public property is a fundamental right guaranteed by Articles 9 and 26 of the Constitution. These properties cannot be repurposed, leased, or encroached upon, even by government entities. Officials are responsible for maintaining these spaces for public use, and failure to do so can lead to legal and disciplinary consequences. Any unauthorized structures on public land must be dismantled.

7. Following Supreme Court precedent, this court mandates that the Secretary of Irrigation safeguard the interests of the petitioners and all other landowners. Any encroachments on the affected land must be immediately removed. The Deputy Commissioner and the relevant Senior Superintendent of Police are ordered to provide full assistance to the Irrigation Department in this removal process, to be completed within two months. If the watercourse has been dismantled, it must be restored without delay. A compliance report detailing the actions taken must then be submitted to the Additional Registrar of this Court.

8. This petition stands disposed of in the above terms.

JUDGE
18/9/2025