

**IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR**  
**C. P No. D – 2138 of 2024**

**Present:**

*Mr. Justice Zulfiqar Ali Sangi,  
Mr. Justice Abdul Hamid Bhurgri,*

Petitioner : Muhammad Yousuf S/o Ghulam Nabi Bhutto,  
through Mr. Muhammad Yousif Mahar, Advocate.

Respondents 1 to 5: Province of Sindh, through Secretary  
Revenue Department, Government of Sindh,  
through Mr. Shehriyar Imdad Awan, Assistant  
Advocate General Sindh.

Respondent No.6 : Qurban Ali Mirani through Mr. Danish Ali Bhatti,  
Associate of Mr. Muhammad Ali Napar, Advocate.

Date of hearing : 18.03.2025.  
Date of decision : 18.03.2025.

**ORDER**

**ABDUL HAMID BHURGRI, J**;- Through this Constitutional Petition, the petitioner has prayed as follows:-

- (a) To direct the official respondents especially Sindh Building Control Authority to demolish the construction raised on the said agricultural plot without approval of SBCA and is in violation of SBC Ordinance, 1979.*
- (b) To restrain the private respondents from raising construction over the agricultural plot in question without getting proper approval from the competent authority, i.e., Sindh Building Control Authority, further restraining official respondents from alienating the title of suit land in favour of any third party by themselves, through their agents, servants, attorneys or any person working on their behalf, till final disposal of the instant petition.*
- (c) To grant any other relief that this Honourable Court deems fit and proper.*

**2.** Learned counsel for the petitioner submits that Petitioner has purchased the property bearing Survey No.45 area 02-26 acres situated in Deh Arain, Taluka (New) Sukkur from its owners through a sale agreement, the petitioner partly paid amount of Rs.60,00,000/-, thereafter he incurred huge amount on the subject land due to Covid-19, the parties could not execute sale deed thereafter petitioner came to know that the owners of the property want to alienate the property in question to third party and they were avoiding to execute the sale deed hence, they preferred suit for Declaration, Specific Performance of Contract and Permanent Injunction bearing F.C

Suit No.74/2022 re- Muhammad Yousuf vs. The Province of Sindh and others with the following prayers;-

- (a) *To declare that the act of defendant No.2 to 5 for not creating registered sale deed in favour of plaintiff is void, ab initio, without due course of law.*
- (b) *to direct the defendants No.2 to 5 to perform their part of contract and to executed the registered deed in respect of suit property i.e. agricultural land measuring 2-26 acres from Survey No.45 Deh Arain, Taluka (New), Sukkur to plaintiff as plaintiff is ready to pay the remaining amount as per agreement.*
- (c) *To restrain the defendants from selling the property and creating interest of third party by restraining the defendants, their agents, servants, nominees, employees, associates, subordinates, labours, Attorney(s) and/or anyone else acting, posing on their behalf from disturbing the plaintiff or pressurizing the plaintiff to cancel the sale agreement in respect of suit property viz. Agricultural land measuring 2-26 Acres from Survey No.45 of Deh Arain, Taluka (New), Sukkur, further restrain the defendants not to transfer to anyone else or create third party interest, without the consent/permission of the plaintiff, without the due course of law and further may be pleased to restrain the defendants No.6 and 7 not to keep any entry of third person or change the record rights till the final disposal of the suit.*
- (d) *To grant permanent injunction against the defendants and thereby restraining the defendants, their agents, servants, nominees, employees, associates, subordinates, labourers, attorney(s) and or anyone else acting, posing on their behalf from continuing their construction work on the said land till the matter is resolved and decided by this Honourable Court of Justice.*
- (e) *To direct defendant No.8 to clear his position and restrain him for any agreement with defendants No.2 to 5.*
- (f) *That if any registered deed is executed by the defendants No.2 to 5 and 8 or any other person same may be cancelled as defendants No.2 to 5 has already executed sale agreement with the plaintiff.*
- (g) *Cost of the suit and / or any other relief which this Honourable Court deems fit and proper in the circumstances of the case may be granted.*

**3.** The counsel for petitioner further submits that application under Order 39 rule 1 and 2 CPC was also filed along with plaint which stands allowed vide order dated

13.04.2022. Despite of the order, the respondents continued construction work over the land. Learned counsel further submits that respondent No.6 has raised illegal construction over the disputed property agricultural involved in the above suit without getting proper approval from the authority hence, petitioner moved application to respondent No.3 on 30.01.2023, copy of the application is attached with as Annexure "A/15". Learned counsel further stated that the Commissioner has been appointed in the above mentioned Suit and he affirmed the contentions of petitioner that construction is going on. The report was submitted on 08.11.2024 before Senior Civil Judge, Sukkur in F.C Suit No.74/2022. He further submits that despite moving application to respondent No.3 he failed to perform his duty, hence left without no option present petition has been filed with prayer that the Honourable Court may be pleased to direct respondent No.3 to demolish the illegal construction raised by the respondents.

**4.** We have heard the learned counsel for the petitioner. Since the suit has been pending between the parties, where title has been disputed. *Prima facie*, it appears that this petition is a just an attempt by the petitioner to get favourable order and to pressurize the respondents to compel them to decide the suit in his favour. This Court strongly condemn such act of petitioner for the reason that he is using the Court as tool for him to get favourable order in suit, such practice is highly depreciable.

**5.** His contention is that he moved application to respondent No.3 but they are not taking any action on his application. We without going into the factual controversy of the case disposed of this petition with direction to respondent No.3 that if any application is pending before him, he may decide the same after hearing all the concerned strictly in accordance with law. While disposing of this petition it is made clear that the trial Court where the Suit is pending shall not influenced with the order of this Court and shall decide the suit strictly in accordance with law. The petition is disposed of in above terms. Copy of this order be communicated to learned AAG and respondent No.3 for compliance.

Judge  
Judge

ARBROHI