

Order Sheet
**IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD**

CP No. D- 673 of 2024
[Sharik Bashir Vs. NAB & others]

Before:-

Mr. Justice Arshad Hussain Khan

Mr. Justice Syed Fiaz ul Hassan Shah

Petitioner : through M/s. Saif Ali Akbar & Farah Khan,
Advocate

Respondents : through Moazam Ali Special Prosecutor NAB

Date of Hearing
& Decision : 30.04.2025

ORDER

ARSHAD HUSSAIN KHAN, J. Through this Constitutional Petition under Article 199 of the Constitution of Islamic Republic of Pakistan the Petitioner has prayed as under:-

- a. To declare that after the omission of Section 23 of NAO, 1999 through the Act of 2022, Respondent Nos. 1 to 3 are under statutory obligation to remove caution over the subject lands;
 - b. To direct Respondent No. 1 to 3 to ensure that the caution under Section 23 of NAO, 1999 is removed from the records of concerned departments instantly;
 - c. To direct the Respondents to ensure that the Petitioner is dealt with in accordance with law and his right and interest in the subject land, including the rights of remaining legal heirs of late Zahir Bashir, is not adversely affected in any manner whatsoever at the hands of the Respondents;
 - d. To direct Respondent No.4 to mutate the subject lands as per the directions of the Hon'ble Sindh High Court at Karachi in SMA No. 100 of 2023; and
 - e. Any other relief this Hon'ble court deems fit and proper.
2. Brief facts of the case are that the petitioner is son of late Zahid Bashir who along with one Ejaz Hanif jointly owned agricultural lands in Taluka Thanu Bula Khan district Jamshoro; that after the death of his father petitioner obtained letters of administration; however, could not transfer the share of his father in the lands in his name due to the Caution placed by the NAB under

Section 23 of NAO, 1999 inspite of the fact that there was no any accusation against his father; that recently Section 23 of NAO, 1999 has been omitted and in view of such omission the petitioner approached the NAB Authorities for removal of Caution but no response has been received; hence finding no other remedy the petitioner has filed the instant Petition.

3. Learned counsel for the Petitioner contends that Section 23 of NAO, 1999 has been omitted following the enactment of National Accountability (Amendment) Act, 2022; therefore, all actions taken under Section 23 of the NAO, 1999 of placing Cautions have become *void ab initio*; that after promulgation of the Act of 2022, this Court at Principal Seat has issued several order for de-caution of properties placed under caution; therefore, the Petitioner is also entitled for the same relief.

4. Learned Special Prosecutor NAB contends that since Section 23 of the National Accountability Ordinance, 1999 has been omitted; therefore, the caution placed on the properties owned by the father of petitioner shall be deemed as not placed.

5. Perusal of record reflects that this Court at Principal Seat vide order dated 17.11.2022 passed in CP No. D- 6372 of 2021 and order dated 28.02.2024 passed CP No. D- 2099 of 2023 have set-aside the Cautions placed on the properties of petitioners; hence following the amendment of omission of Section 23 in NAO, 1999 and keeping in view the orders passed by this Court in the above Constitutional Petitions; this Constitutional Petition is allowed. Resultantly, the Caution so placed on the subject properties of the father of Petitioner stands omitted.

This Constitutional Petition stands disposed of.

JUDGE

JUDGE