

IN THE HIGH COURT OF SINDH AT KARACHI
CP. No. D-1768 of 2025
(Faiz Muhammad Palari v Province of Sindh & others)

Date	Order with signature of Judge
	Before: Mr. Justice Muhammad Karim Khan Agha Mr. Justice Adnan-ul_Karim Memon

Date of hearing and Order: 05.05.2025

M/s Muhammad Daud Narejo and Kamran Ali advocates for the petitioner.

ORDER

Adnan-ul-Karim Memon, J: Petitioner Faiz Muhammad Palari has filed this public interest petition seeking the demolition/removal of an allegedly illegal and unauthorized Cattle Piri (market) for Eid-ul-Adha sacrificial animals. The petition names respondent No. 13, Jamil Memon, who he states also owns a cattle/dairy farm in Dumba Goth, Superhighway, within Deh Konkar and Deh Khurkhro, District Malir, Karachi.

2. The petitioner's counsel argued that respondent No. 13 unlawfully established a cattle market/piri without approval from respondent No. 2 (or the Sindh Building Control Authority) and respondent No. 8. This unauthorized establishment, according to him, violates building and zoning regulations, causing difficulties and diseases (malaria, dengue, respiratory issues, diarrhea, cough, flu in children) for nearby residents due to unsanitary conditions. Despite approaching authorities, no action was taken against respondent No. 13, who is also allegedly violating environmental laws (Sindh Environmental Protection Act 2014). The counsel further stated that while respondent No. 3 (Commissioner Karachi) and KMC notified nine legal cattle market locations, respondent No. 13 illegally established this piri without permission and is unlawfully collecting taxes. The counsel also mentioned a prior successful petition (C.P. No D-2292 of 2023) filed by Muhammad Bux and others against respondent No. 13, which is currently under appeal by respondent No. 13 before the Supreme Court. The petitioner's counsel prayed for an order restraining the private respondent from dumping dung from his cattle farms at unauthorized locations, including Dumba Goth. He also requested the court to direct them to ensure the safe disposal of wastewater from these cattle farms. The petitioner's counsel referred to the inspection report, which he claims to have filed in the earlier petition, highlighting an established, ill-defined cattle mandi ("Jameel Memon Colony") for Eid-ul-Adha on the subject land where the lease for 176 acres (held by Jamil

Memon's cooperative) had expired, with illegal possession of around 400 acres reported. According to him, Jamil Memon claimed payment for a longer lease, which was not issued. He further claims that no proper wastewater drainage was evident, and the source of the alleged sewage flow was unverifiable due to the area's size. Eviction notices and drives were previously conducted but were suspended due to litigation. The counsel pointed to widespread occupation of state land without clear titles, suggesting official collusion. He reiterated the request for safe wastewater disposal and supported the demand for a joint committee-supervised survey to protect state land from encroachment.

3. At this point, the learned counsel also placed before us the Supreme Court's order dated July 1, 2024, in Criminal Miscellaneous Application No. 5731 of 2024 in Civil Petition No. (Nill) of 2024, by which the judgment of this court in an earlier round of litigation was challenged. He admitted that in the aforementioned case, the Supreme Court had ordered that no adverse action be taken against the private respondent pending the next hearing.

4. After carefully scrutinizing the record and hearing the petitioner's counsel on the maintainability of the petition, the key question for this Court is to determine whether the petitioner has any other effective legal remedy available, and if so, should this Court grant any relief under its extraordinary constitutional jurisdiction?

5. This Court finds the present petition suitable for immediate dismissal ("in limine"). The reasons are that the Supreme Court is already addressing almost identical issues in an appeal connected to Civil Petition No. (Nill) of 2024, and the petitioner has not offered any fresh point of view, except that the petitioner has established an unauthorized Cattle Piri (market) for Eid-ul-Adha sacrificial animals, and the subject issue is under consideration before the Assistant Commissioner concerned. In such a scenario, the Assistant Commissioner needs to first handle the petitioner's local government application, annexed with the memo of petition regarding this issue. Seeking both certiorari and mandamus relief at this stage is premature because an alternative legal remedy is still available. Constitutional Courts intervene only when all other options are exhausted, which is not the situation here. Moreover, there is no final government decision for this court to review, and Article 199 of the constitution does not apply to disputes involving private parties. Since the Supreme Court is already considering the requested relief in Criminal Miscellaneous Application No. 5731 of 2024 (within the same Civil

Petition), and a restraining order is operating, this court cannot entertain the current petition.

6. Furthermore, the petitioner's brother already raised these very points, among others, in a previous petition concerning a land dispute. Therefore, it would be improper for this court to intervene while the Supreme Court is seized of the matter. Additionally, the petitioner's public nuisance claim does not arise from a fundamental right, especially since he appears to conflict with the private respondent on specific issues, which requires evidence to be presented before the appropriate court.

7. For the aforesaid reasons, the petition and all pending applications are dismissed in limine.

JUDGE

Head of the Cost. Benches