

HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

C.P No.D-474 of 2025

[Nihal and 05 others vs. Province of Sindh and others]

Date	Order with signature of the Judge
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Fresh Case

- 1. For order on M.A No.2457/2025 (U/A)
- 2. For order on office objections
- 3. For order on M.A No.1823/2025 (Exemption)
- 4. For order on M.A No.1824/2025 ((Stay)
- 5. For hearing of main case.

24.9.2025

Mr.Sikandar Ali Kolachi, Advocate for the Petitioners

ORDER

Through the instant constitutional petition filed under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (the “**Constitution**”), the Petitioners have assailed the Letter dated 11.11.2024, issued by the Deputy Commissioner, Tharparkar (Respondent No.4), addressed to the Assistant Commissioner, Taluka Nagarparkar (Respondent No.5) and the Mukhtiarkar (Revenue), Taluka Nagarparkar (Respondent No.6). The Petitioners contend that the said Letter constitutes an impugned Order and seek the following reliefs:

- a) *To set aside the impugned Order dated 11.11.2024, passed by the learned Deputy Commissioner, Tharparkar @ Mithi, the respondent No.4, and declare/restore the status of the S. No.190 and S. No.17, in favour of the petitioners in their original position.*
 - b) *To direct the respondent No.4 to maintain the grant/allotment order dated 24.05.1993 of the S.No.17.*
 - c) *Direct the respondents, No.5 & 6, not to cause harassment and threats to the petitioner.*
 - d) *Costs.*
 - e) *Any other relief.*
2. At the very outset, learned counsel for the Petitioners submits that the impugned Order was passed by Respondent No.4 without issuance of prior notice or affording an opportunity of hearing to the Petitioners, thereby rendering the said Order illegal, void ab initio, and actuated by mala fides. It is further contended that the impugned Order was passed on a miscellaneous application moved by private Respondents No.7 to 9, in contravention of the Circular dated 03.07.2024 issued by the Board of Revenue, Sindh, which unequivocally stipulates that any Order passed on a miscellaneous application shall be deemed void and devoid of legal efficacy.

3. We have heard the learned counsel for the Petitioners at length and have meticulously examined the record with his assistance. The Petitioners have styled the said communication as an “impugned Order” and have sought, inter alia, its invalidation and restoration of their alleged rights over Survey Nos.190 and 17.

4. At the very threshold, it is imperative to delineate the nature of the impugned document. Upon perusal of the record and the contents of the communication dated 11.11.2024, it is manifest that the document is not an adjudicatory order passed in exercise of any quasi-judicial authority. Rather, it is a letter of an administrative nature, conveying directions to subordinate revenue officers to take preventive measures against unauthorised cultivation and encroachment upon government, evacuee, and enemy property lands. The language employed in the Letter is precautionary and advisory, urging the Assistant Commissioner and Mukhtiarkar to safeguard public lands from illegal occupation and to ensure that Survey No.190, which stands closed for cultivation as per the Survey Map of 1980–81 and Survey No.17, reportedly evacuee property, are not subjected to unauthorised use. The Letter does not adjudicate upon any rights nor determine any legal entitlement of the Petitioners. It is, therefore, not amenable to constitutional jurisdiction under Article 199, which is invoked only against orders or actions that are judicial, quasi-judicial, or administrative in nature and which adversely affect vested rights.

5. The Petitioners have failed to demonstrate any infringement of their fundamental rights or any violation of law that would warrant interference by this Court. The mere issuance of a letter by a revenue authority, directing its subordinates to take lawful action against encroachments, cannot be construed as a violation of the Petitioners’ rights, especially when no adverse order has been passed against them, nor any proceedings initiated. It is settled law that constitutional jurisdiction is not to be exercised in abstract or speculative matters.

6. Counsel for the Petitioners has argued that the impugned communication was issued on a miscellaneous application moved by private Respondents No.7 to 9, and that such action violates the Circular dated 03.07.2024 issued by the Board of Revenue, Sindh. The Circular provides that orders passed on miscellaneous applications without proper proceedings

shall be deemed void. However, as discussed above, the impugned communication is not an order passed on any application, but an internal administrative directive. The reliance placed on the Circular is, therefore, misconceived and misplaced.

7. It is contended that the impugned communication was issued without notice or hearing, thereby violating the principles of natural justice. This contention is equally untenable. The principles of *audi alteram partem* apply only where rights are being adjudicated or penal consequences are being imposed. In the present case, no such adjudication has taken place. The communication merely directs the field officers to take preventive action in accordance with the law. It does not determine any rights or impose any penalty upon the Petitioners.

8. This Court is mindful of the fact that constitutional jurisdiction under Article 199 is an extraordinary remedy, to be exercised sparingly and only in cases where no alternate remedy is available and where manifest illegality or violation of fundamental rights is established. The present petition attempts to pre-empt lawful action by revenue authorities and obstruct preventive measures to safeguard public land. Such use of constitutional jurisdiction is impermissible and amounts to an abuse of process.

9. In view of the foregoing discussion, the instant petition is misconceived, devoid of merit, and not maintainable under Article 199 of the Constitution. The impugned communication dated 11.11.2024 is not an order but an internal administrative letter, which does not affect any vested rights of the Petitioners. No violation of law, fundamental rights, or principles of natural justice has been established. Accordingly, the petition stands **dismissed** in *limine* along with the listed applications.

JUDGE

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