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ORDER SHEET

THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANO

C. P No. D-502 of 2022

Date	Order with signature of Judge
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1. For order on office objection.
2. For order on M.A No. 1739/2022. (Stay Application).
3. For order on maintainability of main case.

08-06-2022

M/s. Mazhar Ali Mangan, Kazim Ali Abbasi and Mansoor Ali Dahani, advocates for the petitioner.

Ms. Kalpna Devi, Additional Advocate General, Sindh

Mr. Muhammad Imran Abbasi, Assistant Attorney General a/w Kanwar Shujat Ali, District Election Commissioner, Larkana, Gulsher Soomro, Returning Officer, UC-01 to 05, Sachal Town, Larkana.

Mr. Mukhtiar Ahmed Khoso, advocate for respondent No.9.

This constitution petition under Article 199 of Constitution of Pakistan has been filed by the petitioner who is candidate for Local Body Election 2022 for the post of Vice Chairman UC-01, Sachal Town, Larkana and having filed joint nomination form with chairman, namely, Zubair Ahmed Tunio and the order dated 27.05.2022 has been passed by the Returning Officer U.C-01 to 5, Sachal Town, Larkana has been impugned therein, whereby the nomination of the petitioner was not entertained treating him as not qualifying a *SADIQ* and *AMEEN* on account of not providing all the details of his assets.

Learned counsel for the petitioner contends that the objection against him was raised on part of respondent No.9 as the land bearing Sy. No. 225, total area (00-31), out of which area (00-18) ghuntas, Sy.No. 697, area (00-32) ghuntas, out of which area under sale (00-02) deh Wah Nabi Bux, Tapo Abra, Taluka Larkana was alleged to have been in his




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ownership for and respect of which, his stand is, that he sold the same by way of sale agreement and the copy of the said agreement was brought before the learned Returning Officer. Per learned counsel in the said circumstances, the impugned order without creating any actual disturbance to the facts of the alienation for the said land, cannot be legally stand in the field.

Learned counsel for the respondent No.9 however, contends that the land under objection was earlier standing in the record of revenue in favour of the petitioner and there being no registered document shown for alienation, the same is liable to be considered in the ownership of the petitioner and in respect of the said alienation by registration, the failure of the petitioner to mention the same in the list of assets disentitles him to be entertained and he has rightly been so declared as not SADIQ and AMEEN by the Returning Officer.

Learned Additional Advocate General, Sindh and learned Assistant Attorney General have relied upon the record as present before this court and supported the impugned order.

Learned Additional Advocate General, Sindh has also referred to some dates acknowledge on the sale agreement stating that they are proceeding to the dates of purchase/issued, however, prima facie they seem to be the dates of receipt of partial amounts which being in respect of partial payments, same do not create substantial doubt to the rejection of such entertainment. In this regard, learned counsel for respondent No.9 contends that this was a factual controversy.

We have heard the learned counsel for parties and have gone through the record. 

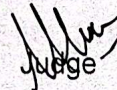
In our standing, the impugned order concluding the proceeding by the following paragraphs:-

"On the other hand, learned counsel for the respondent argued in detail, but could not satisfy the undersigned in respect of objection raised by the applicant/objector regarding ownership of land in question."

The impugned order is *prima facie* not a speaking order in the first place as such the same is not giving any substantial reason except for personal satisfaction for which cannot sustain in law. It is also observed that perhaps the learned Returning Officer has failed to make the proper inquiry or for that matter considered that the intent of law *prima facie* being acquired the details of assets of person intending to hold the office for any wrongful gain in future to be dealt with. The seller of land has accepted alienation i.e he disowns the alleged land, now the same in his undertaking is not his property. The law in relation to transfer of property does not mandate for an acknowledgment in this regard.

In the present circumstances and for the reasons hereinabove given, we had set-aside the impugned order dated 27.05.2022 and allowed the petition by a short order dated 08.06.2022, whereby petitioner shall be entitled to be treated as a nominee for the post of Vice Chairman U.C-01, Sachal Town, Larkana and disposed of the petition and these are the reasons of the same.


Judge


Judge