

**IN HIGH COURT OF SINDH, CIRCUIT COURT
HYDERABAD**

C.P No. D-2186 of 2025

[Tarique Mubeen & others v. Province of Sindh and others]

Before:

**Mr. Justice Arbab Ali Hakro
Mr. Justice Riazat Ali Sahar**

Petitioners : Through Mr. Muhammad Arshad S.Pathan, Advocate along with Mr.Safdar Hussain Leghari, Advocate.

Respondents No.1to8 : M/s. Allah Bachayo Soomro and Muhammad Ismail Bhutto, Additional Advocate Generals Sindh along with Noor Mustafa Laghari, D.C. Tando Allahyar, Babar Saleh A.C. Tando Allahyar, Niaz Ali Siyal Mukhtiarkar, Tando Allahyar, Nadeem Pervaiz, City Surveyor, Tando Allahyar, Ghulam Rasool Abbasi, Executive Engineer Provincial Highways Hyderabad, Asif Ali Samoo Assistant Engineer, Provincial Highway, Tando Allahyar, Syed Aijaz Ali Shah, Municipal Engineer, M.C. Tando Allahyar, Abid Wali CMO, M.C. Tando Allahyar and Tarique Mubeen.

Date of Hearing : **15.01.2026.**

Date of Decision : **15.01.2026.**

O R D E R

RIAZAT ALI SAHAR, J.:- Through this Constitutional Petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioners have prayed for the following reliefs:-

(a) Declare that the acts of respondents No. 5 to 7 in conducting false, baseless, and illegal measurement and issuing threats of demolition of properties situated in City Survey Nos. 80, 81 & 82, Ward-A, Tando Allahyar, are without lawful authority, jurisdiction, policy, or consultation.

- (b) *Declare that the act of measuring and taking 110 feet wide area from the western side of the road, instead of from the centre of the existing road, is arbitrary, discriminatory, mala fide, and unlawful.*
- (c) *Declare that the notices dated 12.09.2025 and 31.10.2025 issued by the Mukhtiarkar under Sections 22 and 27 of the Sindh Land Revenue Act are illegal, void, and without jurisdiction.*
- (d) *Direct the respondents to first disclose and place on record any approved feasibility study, alignment plan, or policy, consult the affected residents, and thereafter initiate lawful land acquisition proceedings or negotiated purchase, if required, strictly in accordance with law.*
- (e) *Restrain the respondents from conducting any further illegal measurement, marking, demolition, or interference with the petitioners' properties without lawful acquisition or due process.*
- (f) *Restrain the respondents from visiting the site for the purpose of coercive action, including the use of heavy machinery or police force, against the petitioners' properties.*
- (g) *Grant any other relief deemed just and proper in the circumstances of the case.*
- (h) *Award costs of the petition.*

2. In the petition, the petitioners have claimed that they are permanent residents of Tando Allahyar, being lawful owners and occupants of properties situated in City Survey Nos. 80, 81 & 82, Ward-A, which form part of a duly city-surveyed area surveyed in 1944–45. The original City Survey Sheets, Maps and Ruled Cards prepared at that time conclusively establish private ownership and do not reflect any notified government or highway road at the location commonly known as the Tando Adam Road. Despite the city-surveyed status of the area and the petitioners' settled possession, officials of the Provincial Highways Department, in collusion with the local Revenue authorities, have initiated illegal and arbitrary actions for widening/dualization of the said road, allegedly under a PSDP Scheme 2025–26, without disclosing

any approved feasibility, alignment plan, notification, or lawful authorization.

3. The petitioners have further stated that initially, they were informed that any widening would be measured from the centre of the existing road; however, the respondents have subsequently and unilaterally altered their stance and are now asserting measurement of 110 feet from the western edge of the road, which would entirely consume the petitioners' houses, shops, and businesses while sparing the eastern side. No land acquisition proceedings under the Land Acquisition Act, 1894 have been initiated; no notification under Section 4 has been issued; no compensation assessed or deposited; and no consultation with the affected residents has taken place. The respondents have further withheld the original city survey record, despite being its lawful custodian and have unlawfully issued notices under Sections 22 and 27 of the Sindh Land Revenue Act, which are inapplicable to city-surveyed urban properties and wholly without jurisdiction. The impugned actions, including threats of demolition through heavy machinery and police force, are patently illegal, discriminatory, and violative of the petitioners' fundamental rights to life, liberty, dignity and property. The petitioners' properties are long-standing residential and commercial units with valid utility connections and constitute their sole means of livelihood. In the absence of any lawful acquisition, approved scheme, or transparent process, the respondents' conduct amounts to misuse of authority and warrants judicial intervention.

4. Notices were issued to the respondents as well as Additional Advocate General Sindh.

5. In response to the petition, Respondents Nos.5, 6, 7, 9 have stated in their comments that the impugned matter pertains to the widening and dualization of Tando Adam–Tando Allahyar Road, a public welfare project forming part of a Federal/Provincial development scheme, extending approximately 31 kilometers and executed by the Provincial Highways Department. The District

Administration has merely provided lawful assistance in accordance with official record. Upon verification of revenue and city survey record, it is stated that the disputed land falls within the Government Right of Way (ROW) measuring 110 feet and that the petitioners, along with others, have raised unauthorized commercial and residential structures within the road area. Notices were issued for removal of encroachments and upon objections raised, demarcation was carried out through the Director, Settlement Survey & Land Records, Hyderabad, using GPS-based modern techniques, which confirmed the road width as 110 feet. It is further contended that historical revenue entries, including Ghat Wadh Forms and city survey maps, demonstrate that the disputed area had long been reserved for road expansion and any subsequent private transactions by the petitioners do not confer valid title over Government ROW. The respondents denied allegations of *mala fide*, selective action, or political favoritism, stating that all actions were undertaken in good faith, strictly in discharge of statutory duties and without any intention to acquire private property, but merely to reclaim Government land for public use. The issuance of notices and demarcation proceedings are stated to be lawful and within jurisdiction.

6. The respondent Chief Municipal Officer, Municipal Committee, Tando Allahyar also filed comments wherein it is stated that the road is a Provincial Highway, not a municipal road and therefore its role is limited and does not extend to alignment, width determination, or execution of the project. It is contended that the petition is misconceived, involves disputed questions of fact, and seeks to obstruct a public-interest project. The respondents prayed for dismissal of the petition, declaration that the disputed land forms part of Government ROW and permission to proceed with the road widening project in the larger public interest.

7. Respondents No.17/SSP Tando Allahyar and respondent No.19/SHO PS A-Section Tando Allahyar also filed their comments stating that they have no nexus with the subject issued

involved in the instant petition and prayed for deletion of their names list of respondents.

8. Since this Court found that the contentions raised by the learned counsel for the petitioners involved valuable rights and required consideration; accordingly, by order dated 13.01.2025 while issuing notices to the concerned respondents, their personal appearance was directed along with submission of reports.

9. In compliance, the Deputy Commissioner, Assistant Commissioner and Mukhtiarkar/City Survey Officer, Tando Allahyar, submitted their reports stating that City Survey No. 82 was carved out of Revenue Survey No. 228, and that as per Ghat Wadh Form and Dakhil Kharij Register entries, an area measuring 1-9 acres was acquired by the Government in 1947 for widening of the Tando Allahyar-Tando Adam Road. They further stated that the petitioners subsequently occupied portions of the said road area and are now claiming ownership of City Survey Nos. 82/1 to 82/28. In compliance with the Court's direction, complete sets of available city survey khatas pertaining to the said numbers were produced before the Court for perusal. The Executive Engineer, Provincial Highways Division, in his compliance report, stated that the road in question forms part of a Federal PSDP dualization project extending approximately 31.40 kilometers, executed strictly along the existing road alignment. It was further reported that, to ensure transparency, demarcation was conducted by an expert team from the Director, Settlement Survey & Land Records, Hyderabad, using GPS-based modern techniques and the width of the road was confirmed to be 110 feet. The Executive Engineer asserted that the project is being executed within the existing Government Right of Way and sought permission to proceed with the work in the larger public interest.

10. Learned counsel for the petitioners contends that the petitioners are lawful owners/occupants of subject properties, which form part of a duly city-surveyed area. He contends that the respondents have initiated widening/dualization of the Tando

Allahyar-Tando Adam Road without any lawful acquisition, approved alignment, or consultation with the affected residents. Learned counsel further contends that measurement is being conducted illogically from one side of the road, contrary to law and principles of fairness, with the object of sparing encroachers on the opposite side. He contends that notices issued under the Land Revenue Act are without jurisdiction and that threats of demolition without due process is against the settled law. He, therefore, contends that the impugned actions are based on *mala fide*, discrimination and liable to be restrained.

11. Learned A.A.G. Sindh contends that the road in question is a Provincial Highway forming part of a Federal PSDP dualization project being executed in public interest. He further contends that the petitioners' structures fall within the Government Right of Way measuring 110 feet, as confirmed by expert demarcation conducted by the Settlement Survey & Land Records Department. Learned A.A.G. Sindh further contends that no private property is being acquired and that the respondents are merely reclaiming Government land from encroachment. He contends that all actions have been taken in accordance with law and official record, without *mala fide* and that the petition seeks to obstruct a public welfare project and is therefore liable to be dismissed.

12. We have heard learned counsel for the petitioner and the learned A.A.G. Sindh and upon thorough and meticulous examination of the record, inclusive of the factual background, the submissions of learned counsel for the parties and reports submitted in compliance of Court directions, the following points arise for determination:

- (a) Whether the subject properties situated in City Survey Nos. 80, 81 & 82, Ward-A, Tando Allahyar fall within the Government Right of Way (ROW) of the Tando Allahyar-Tando Adam Road or constitute privately owned city-surveyed land as per the City Survey conducted in 1944-45 and subsequent record of rights?

- (b) Whether the demarcation and measurement carried out by the respondents, particularly measuring 110 feet from one side of the existing road instead of its centre line, is lawful, fair, non-discriminatory, and in accordance with sanctioned alignment, historical record, and settled principles governing road widening?
- (c) Whether issuance of notices under Sections 22 and 27 of the Sindh Land Revenue Act, 1967, in respect of city-surveyed urban properties, is lawful and within jurisdiction?
- (d) Whether the respondents can proceed with widening/dualization of the road without conclusively determining title, entitlement, and extent of Government Right of Way, and without affording due process and opportunity of hearing to the affected persons?
- (e) Whether the disputed questions relating to title, boundary, demarcation and extent of Right of Way can be conclusively adjudicated in exercise of constitutional jurisdiction under Article 199 of the Constitution, or require determination through an appropriate fact-finding mechanism?
- (f) What directions, if any, are required to ensure lawful execution of the public welfare project while safeguarding the fundamental rights of the petitioners?

13. It is well-settled that while this Court, in exercise of jurisdiction under Article 199 of the Constitution, may intervene where actions of the State are shown to be without lawful authority, arbitrary, or in violation of fundamental rights, this jurisdiction is not ordinarily meant for adjudication of complex and disputed questions of fact, particularly those relating to title, demarcation and boundary disputes, which require examination of historical record and technical evidence. In the present case, the central controversy revolves around the exact location, width and alignment of the Tando Allahyar–Tando Adam Road, the extent of Government Right of Way and the status of the petitioners' properties with reference to the original City Survey of 1944–45 and subsequent developments. Both sides rely upon historical survey

documents, revenue entries, acquisition record and modern GPS-based demarcation, giving rise to disputed factual questions which cannot be conclusively determined within writ jurisdiction on the basis of affidavits alone.

14. At the same time, the petitioners have raised legitimate concerns regarding measurement from one side of the road instead of from the centre line, alleged lack of transparency and threats of coercive action without prior determination of rights. Conversely, the respondents stated that the project is a public welfare scheme confined strictly within Government ROW. These competing claims necessitate a neutral, transparent and participatory fact-finding process, rather than outright acceptance or rejection of either version.

15. For the above discussion, facts and circumstances, we are of the considered view that while the disputed factual questions cannot be finally adjudicated in constitutional jurisdiction, the Court is fully competent to ensure fairness, due process and legality of the procedure adopted by the State in execution of a public project. Accordingly, in order to balance public interest with protection of constitutional and proprietary rights, this petition is **disposed of** with the following directions:-

A. A **Committee** is hereby constituted comprising of:

- (i). Deputy Commissioner, Tando Allahyar — Chairman.
- (ii). Superintending Engineer, Provincial Highways Circle, Hyderabad — Member
- (iii). Representative from the office of the Director, Settlement Survey & Land Records, Hyderabad — Member
- (iv). City Surveyor concerned — Member

B. The Chairman shall issue notices through all available modes to the petitioners and all concerned stakeholders and shall afford them proper opportunity of hearing.

C. The Committee shall scrutinize and examine:-

- (i). The City Survey record conducted in the year 1944–45, including survey sheets, maps, ruled cards, khatas, and allied documents;
- (ii). The record of rights and entitlements, including Ghat Wadh Forms, acquisition record and subsequent mutations;
- (iii). The subsequent development and nature of occupation over the subject land;
- (iv). The sanctioned alignment, width and location of the road, if available.

D. The Committee shall ensure that repair, widening, or construction of the road is undertaken strictly at the proper and sanctioned place and that the road width of 110 feet, if established, is measured from the centre of the road and equally divided on both sides, unless otherwise justified by lawful record.

E. The entire exercise shall be completed within thirty (30) days from the date of receipt of this order.

F. A detailed compliance report, along with findings and relevant record, shall be submitted to this Court through the Additional Registrar within a week's time of completion of the exercise.

G. Till completion of the above exercise, the respondents shall act strictly in accordance with law and no coercive action shall be taken against the petitioners.

16. With these observations and directions, the petition stands **disposed of** in the above terms along with all pending applications. However, there would be no order as to costs.

JUDGE

JUDGE