

**ORDER SHEET**

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

**Constitution Petition No. D- 822 of 2024***(Fayaz Ali Rajput Vs. Province of Sindh & others)*

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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**Before;**

***Adnan-ul-Karim Memon, J;***  
***Abdul Hamid Bhurgri, J;***

**Date of hearing and order: 15-06-2026.**

Mr. Alam Sher Khan Bozdar, Advocate for the petitioner.  
 Mr. Israr Ahmed Shah, Assistant A.G.

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**O R D E R.**

**Adnan-ul-Karim Memon J:-** The petitioner prayed that the actions of the official respondents be declared illegal and without lawful authority, that the impugned notice dated 30.04.2024 be suspended and set aside on the ground that it was issued mala fide, and that any other appropriate relief deemed just and proper in the circumstances of the case be granted by this Court.

2. Learned counsel for the petitioner submitted that the petitioner, a medical doctor by profession, is the lawful owner of a residential and commercial property comprising Fayaz Medical Centre situated at Ghotki, which was purchased through a registered sale deed in 2008. It was argued that the property was duly entered in the city survey record and that the petitioner had been in peaceful possession thereof. Counsel contended that officials of the Irrigation Department repeatedly alleged that the petitioner had encroached upon government land, even though a joint demarcation was conducted by the revenue, survey, and irrigation authorities. According to the demarcation report and site map, the petitioner's property was found to be outside the limits of irrigation land, and no encroachment was detected. It was further argued that, notwithstanding the said report, the respondents issued a notice dated 30.04.2024 alleging illegal occupation of irrigation land. Counsel maintained that the impugned notice was issued with mala fide intent, for purposes of harassment and

blackmail, and was politically motivated. He therefore prayed that the notice be declared unlawful and suspended by this Court.

3. Conversely, learned AAG denied the allegations of mala fide, harassment, and blackmail, and submitted that the respondents were merely performing their statutory duties. He contended that the respondents did not know of, nor participate in, the alleged demarcation proceedings relied upon by the petitioner. According to the reports available with the Irrigation Department, the petitioner had constructed portions of his medical centre within the limits of irrigation land, which necessitated the issuance of the impugned notice. Learned AAG further argued that the petitioner never approached the respondents with the alleged demarcation report before filing the petition. While disputing the validity and conclusiveness of the demarcation report, the respondents expressed willingness to participate in a fresh joint survey through an independent third party in the presence of representatives of the Irrigation Department. It was therefore prayed that the petition be dismissed as being without merit; alternatively, a fresh joint survey be ordered to ascertain the true position of the property.

4. When confronted with this legal position of the case, learned counsel for the petitioner, upon instruction, seeks the disposal of the petition by passing appropriate orders.

5. We have heard learned counsel for the parties and have perused the available record.

6. It is an admitted position that the controversy relates to the question whether the petitioner's property falls within the limits of irrigation land. The petitioner has relied upon a demarcation report to assert that no encroachment exists, whereas the respondents dispute the authenticity and conclusiveness of such a report and maintain that, according to the material available with the Irrigation Department, the petitioner has raised construction over irrigation land. Thus, disputed questions of fact are involved, which cannot appropriately be resolved in constitutional jurisdiction without recording evidence.

7. It is further noted that the impugned communication dated 30.04.2024 is merely a notice and does not constitute a final order adversely affecting the vested rights of the petitioner. The law is well settled that ordinarily constitutional jurisdiction is not

invoked against a mere show-cause notice unless the same is shown to be wholly without jurisdiction or patently unlawful. The petitioner has failed to place on record any material demonstrating that the respondents lacked lawful authority to initiate proceedings or issue the impugned notice.

8. At the same time, the respondents themselves have expressed willingness to undertake a fresh joint demarcation through an independent survey in the presence of all concerned departments. Such a course would be the most appropriate and effective mechanism for determining the exact status of the land and resolving the controversy based on technical evidence rather than disputed assertions of the parties.

9. In these circumstances, this petition is disposed of with directions to the competent authorities to conduct a fresh joint demarcation/survey of the property in question through the relevant survey and revenue authorities, after providing notice and an opportunity of hearing to the petitioner and all concerned stakeholders. Upon completion of the survey, the respondents shall pass a speaking order strictly in accordance with the law.

10. With the above observations and directions, this petition stands disposed of along with any pending applications.

**JUDGE**

**JUDGE**