

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

C.P No.D-3416 of 2025

[Haji Muhammad Yousuf v. Province of Sindh & others]

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
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Before;

Mr. Justice Yousuf Ali Sayeed;

Mr. Justice Abdul Hamid Bhurgri.

Direction

For orders as to maintainability of Petition.

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Date of hearing:- 11.09.2025

Mr. Sufiyan Zaman, Advocate for the petitioner.

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Abdul Hamid Bhurgri, J.- The petitioner has approached this Court seeking demarcation of land and a decision on his application for renewal of lease by the official respondents. He claims allotment of 50 acres from Na-Class No.305, Deh Kharkharo, Tapo Konkar, Gadap Town, Karachi in 1976, which was duly mutated in his name. The initial 10-year grant was subsequently converted into a 30-year lease vide Notification No. KB-1/1/30/72/81 dated 19.01.1992, but his request for further conversion into a 99-year lease has not been considered. It is further averred that certain land grabbers, acting on fabricated allotment orders, attempted to interfere with his possession, compelling him to institute Suit No.1333 of 2008, wherein an interim status quo order was passed on 08.10.2008. Despite repeated approaches, the official respondents have neither effected demarcation of the subject land nor decided his application for renewal of lease. Hence, the present petition was filed whereby following relief was sought:-

- A. Direct Respondent No.2, 3, 6 and 7 to carry out a comprehensive and official demarcation of the Subject Land admeasuring 50 acres, bearing Na-Class No.305, situated in Deh Kharkharo, Tapo Konkar, Gadap Town, Karachi, in the presence of the Petitioner and all concerned parties, and to submit a detailed demarcation report before this Honourable Court;
- B. Direct Respondent No.2 (Board of Revenue, Sindh) to decide the Petitioner's pending applications for extension/renewal of lease from 30 years to 99 years in accordance with law, rules, and the Government of Sindh's Notification No.KB-1/1/30/72/81 dated 19.01.1992, after providing the Petitioner an opportunity of hearing;
- C. Direct the official Respondents, particularly Respondents No.2 and 7, to produce the original

allotment record pertaining to the Subject Land, including the allotment proceedings conducted in the open kutchery in 1976, and place of same before this Honourable Court for verification and record:

- D. Restrict all private persons and unauthorized parties from creating third-party interests or interfering with the lawful possession of the Petitioner over the Subject Land during the pendency of this petition;*
- E. Grant any other relief(s) deemed just and proper in the circumstances of the case.*

2. After having heard learned counsel for the petitioner, we have gone through material available on record.

3. At the very outset, it may be observed that the claim of the petitioner rests upon an allotment and lease, the continuation and renewal whereof is itself disputed, thereby casting a cloud upon his title. It is a settled principle of law that where title is controversial or disputed facts arise, such issues cannot be adjudicated in constitutional jurisdiction and requires to be thrashed out before the competent civil forum through leading of evidence. Since the petitioner has already instituted a civil suit wherein status quo has been ordered, this Court is not inclined to entertain the petition on the same subject. Even otherwise, the petitioner has failed to demonstrate that he had approached the competent authorities for demarcation in the manner prescribed by law. Section 117 of the Sindh Land Revenue Act, 1967, provides for making an application for demarcation while, Rules 67-A and 67-B of the Sindh Land Revenue, Rules 1968, lay down the procedure to be followed on such application. Section-117 and Rules, 67-A and 67-B are to be read together in order to regulate the process of demarcation. Section 117 of Sindh Land Revenue, Act, 1967 is reproduced as under:-

117. Power of revenue officers to define boundaries:-

(1) A revenue officer may, for the purpose of framing any record or making any assessment under this Act, or on the application if any person interested, define the limits of a deh, or of any holding, field or other portion of a deh, and may, for the purpose of indicating those limits, require boundary marks to be erected or repaired.

(2) In defining the limits of any land under sub-sections (1), the Revenue Officer may cause boundary marks to be erected on any boundary already determined by, or by order of, any Court or Revenue Officer or any Forest Settlement Officer appointed under the Forest Act, 1927 (Act XVI of 1927), or restore any boundary mark already set up by, or by order of, any Court or any such Officer.

Whereas, Rule-67-A and Rule 67-B of the Sindh Land Revenue, Rules 1968 read as under:-

67-A. Demarcation of land.- An application under section 117 for defining the limits of an estate, a holding, a field or any portion thereof, shall contain the following particulars:-

- (a) Designation of the Revenue Officer to whom it is addressed.
- (b) Name, parentage and address of the applicant and if the applicant is minor, or a person of unsound mind, the name, parentage and address of his guardian or of a male member of his family.
- (c) Name, parentage and address of the person or persons against whom the application is made, and if he or any one of them is a minor or of unsound mind, the name, parentage and address of his guardian or of a male member of his family.
- (d) Location and full description of the land to be demarcated.
- (e) A brief statement of facts and reasons necessitating the making of application.
- (f) Signatures or thumb-impression of the applicant.
- (g) Any other matter which is necessary for the proper disposal of application.

(2) An application under sub-rule (1) shall bear the court-fee stamp of rupee one and shall be accompanied by: -

- (a) **An attested copy of the latest entry in Register Haqdaran-Zamin or Jamabandi relating to the land mentioned in the application;** and

- (b) An attested copy of the portion of the map of the estate showing field numbers mentioned in the application.

(3) The application shall be presented to: -

- (a) The Revenue Officer-in-charge of the Circle in case the land to be demarcated is situated within a Tehsil; and
- (b) The Revenue Officer-in-charge of a Sub-Division, in case the limits of the land to be defined extend to an adjoining Sub-Division or District.

(4) On the receipt of such application duly accompanied by the attested copies mentioned in sub-rule (2), the Revenue Officer concerned shall: -

- (a) Cause the application to be registered in the relevant column of the Register to be maintained in his office in Form XXXIII-A;
- (b) Fix time and date for demarcation of boundaries; and
- (c) Cause a notice in Form XXXIII-B to be issued in duplicate to-
 - (i) The parties to the application;
 - (ii) Lambardar of the village in which the land mentioned in the application is situated;
 - (iii) Field Kanungo of the Circle;
 - (iv) Revenue Patwari of the village if the notice is not to be served through him; and
 - (v) Any other person whose presence at the time of demarcation of boundaries is considered necessary or expedient by the Revenue Officer.

(5) The notice issued under clause (c) of the preceding sub-rule shall be served on the persons

mentioned therein, in the following modes, at least one week before the date fixed for demarcation of land:-

- (a) By delivering a copy thereof to the person mentioned therein and obtaining his signature or thumb-impression on duplicate copy in token of his having received the same:
- (b) In case of refusal to receive the notice or absence of such person, by affixing a copy thereof on the outer-door of his house or place of residence, in the presence of at least one witness and also by beat of drum at the expense of the applicant;
- (c) If any person to be served is residing at a place, other than the village in which the land is situated, notice shall be served on him, by means of registered post "Acknowledgement Due", or by any other means as the Revenue Officer deems fit. The expenses for such service shall be borne by the applicant.
[Underlining is for emphasis]

(6) At the time and on the date fixed for demarcation of boundaries, the Revenue Officer shall, in the presence of the parties and other persons mentioned in clause (c) of sub-rule (4) as may be present in response to the notice served on them, cause the measurement of the land to be taken under his personal supervision, strictly in accordance with the instructions and standing orders on the subject issued by the Financial Commissioner and the Board of Revenue from time to time.

(7) (a) Soon after taking necessary measurement, the Revenue Officer, on the basis of data so collected, shall draw up a plan of the encroached area, if any, and shall prepare a report "inter alia", containing the following details:-

- (i) Time, date and place of demarcation of boundaries.
- (ii) Full description of the land measured and demarcated.
- (iii) Mode and details of the measurements taken.
- (iv) Persons in whose presence such measurements were taken and other demarcation proceedings took place and the objection, if any, raised by any one or more of them during that time.
- (v) Limits of the existing possession including the exact dimensions of the encroached area, if any, and the names of the persons found in possession thereof.
- (b) The Revenue Officer, after preparing the report, shall read out the same to the parties and record their statements as to whether they have understood the proceedings or any party thereof and have any objection against any portion of his report.
- (c) After recording such statements and his opinion thereon, the Revenue Officer, on return to his Headquarter, shall place the report, together with the plan of encroached area and statement of the parties, on the file and cause the particulars of the proceedings entered in the relevant columns of Register maintained in office in Form XXXIII-A.

67-B. Eviction of unauthorized land-owners.- (1) An application under section 122 for the eviction of a land-owner

found in wrongful possession of a land as a result of demarcation proceedings taken under section 117 read with rule 67-A, shall contain the following particulars:-

- (a) Name, parentage and address of the person who has been found in wrongful possession of the land (hereinafter referred to as the respondent) and if he happens to be a minor or a person of unsound mind, the name , parentage and address of his guardian or of any male member of his family.*
- (b) Location and description of the land, the possession of which is required.*
- (c) Brief statement of demarcation proceedings, its result and reasons for the application.*
- (d) Any other fact which may be necessary for the fair disposal of the application.*

(2) The application shall bear the court-fee stamp of rupee one and shall be accompanied by:-

- (a) A certified copy of the report, including copy of the plan of encroached area, prepared by the Revenue Officer in the demarcation proceedings conducted by him under rule 67-A; and*
- (b) As many copies of the application as the number.*

(3) The application shall be addressed and submitted to the Collector-in-charge of the Sub-Division in which the land in dispute is situated:

Provided that where the demarcation proceedings are conducted by the Revenue Officer-in-charge of the Sub-Division, the application shall be addressed and submitted to the Collector of the District.

(4) On the receipt of the application, the Collector shall fix a date for its hearing and cause its notice in Form XXXIII-C, together with a copy of the application, to be served on the respondent in the manner prescribed in sub-rule (5) of rule 67-A.

(5) On the date fixed for hearing, the respondent may put up his appearance either in person or through an authorized agent and may file his reply to the application. The Collector, on the same date of hearing or on any subsequent date to which the proceedings may be adjourned, after hearing the parties and examining the record, including the file of demarcation proceedings, may –

- (a) Direct fresh demarcation proceedings to be taken by the same or any other Revenue Officer, if he is satisfied that the land-owner whose eviction from the land has been sought, had no knowledge of the demarcation proceedings or there was some material irregularity committed by the Revenue Officer in such proceedings; or*
- (b) Accept the application and order eviction of the respondents or any one or more of them who have been found in wrongful possession of the land or any portion thereof:*

Provided that where the proceedings substantially involve a question of title or an intricate question of law, the Collector shall not pass any order on the merits of the application and shall refer the parties to the Civil Court.

(6) *If the Collector orders fresh demarcation proceedings to be taken by the same or any other Revenue Officer, such Revenue Officer shall follow the procedure laid down in rule 67-A to the extent and from the stage it become applicable.*

(7) *On the acceptance of the application, the Collector shall afford the respondent an opportunity of delivering possession of the disputed land to the applicant within a period not exceeding one month and if he fails to do so, the Collector, on an application made by the applicant, shall issue a warrant of eviction in Form XXXIII-D which shall be executed by an official not below the rank of a Kanungo, with or without police assistance, according to the circumstances of each case].*

[Underlining is for emphasis]

4. The requirement of furnishing particulars such as the name, parentage, and address of the person against whom demarcation is sought is not a mere formality but a substantive safeguard. It ensures that all affected parties are put to notice and afforded an opportunity of hearing before alteration of boundaries or rights in immovable property. It is settled law that where statutory rules prescribe a mandatory procedure, failure to adhere thereto vitiates the entire process but here in the present case, the omission of these particulars renders the application incompetent.

5. It is also settled principle that where the question of title is sub judice before a competent civil court, the constitutional jurisdiction cannot be invoked for collateral relief such as demarcation, which is directly dependent upon ownership. The Honourable Supreme Court in number of cases has emphasized that the High Court, while exercising writ jurisdiction, will not enter upon disputed questions of fact or grant directions which may prejudice pending civil proceedings. Accordingly, since the petitioner's title is already under challenge in the civil suit, no direction for demarcation can be issued at this stage.

6. The contentions of the petitioner is that under Section 117 of the Sindh Land Revenue Act, the Revenue Officer is specifically empowered to define the boundaries of any land, holding, or field on the application of an interested person or for the purpose of framing the record. However, no application has been shown to have been submitted by the petitioner to demonstrate that he had approached the competent authorities for demarcation.

7. From the above legal and factual position, it is clear that demarcation cannot be ordered in constitutional jurisdiction. The statutory provisions under Section 117 of the Sindh Land Revenue Act, 1967, read with Rules 67-A and 67-B of the Sindh Land Revenue Rules, 1968, require the applicant to move an application before the competent revenue authority, accompanied by a fresh entry of the record of rights and particulars of the person against whom demarcation is sought. In the present case, the petitioner has not even submitted any application before the concerned authorities, which alone renders the relief sought incompetent.

8. Furthermore, Rule 67-B clearly mandates that where proceedings involve a question of title or an intricate question of law, the Collector shall not decide the matter on merits but must refer the parties to the Civil Court. Since the petitioner has already instituted a civil suit in respect of the same grievance, this Court cannot issue directions for demarcation while the question of title remains sub judice.

9. Likewise, the request for issuance of directions to decide the application for renewal of lease also cannot be entertained in writ jurisdiction, as the suit for same relief has been filed by the petitioner which is pending adjudication; hence no observation can be given in this Order which might prejudice the case of either party. Since interim protection in the form of a status quo order has already been granted by the civil court, the rights of the parties stand preserved till final adjudication. Any observations made herein are only for the purpose of this petition and shall not prejudice the case of either party nor influence the pending proceedings, which shall be decided strictly in accordance with law.

10. Accordingly, the petition stands **dismissed** in limine, along with all pending applications, if any.

JUDGE

JUDGE

Ayaz Gul