

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No.D-5831 of 2023
(*Syeda Sakina Riaz and another versus Province of Sindh & others*)

Date	Order with signature of Judge
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Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Zulfiqar Ali Sangi

Date of hearing and order:- 16.04.2026

M/s Haq Nawaz Talpur, Qazi Umair Ali and Zeeshan Ali Memon, advocates for the petitioners.

Mr. Ali Safdar Depar, AAG along with Mr. Ghazanfar Ali Abbasi, Deputy Secretary (LU), BOR, Mr. Mushtaque Ali, Focal Person for land BOR and Mr. Akhtar Ali Mastoi, Law Officer, LU Department.

ORDER

Adnan-ul-Karim Memon, J. – The Petitioners filed this Constitutional Petition alleging harassment by official Respondents without due process and seeking either alternate land or compensation for land measuring 04 acres in Deh Drigh Road and 16-32 acres in Deh Sharafi, Karachi, along with verification of revenue record in their deceased mother’s name.

2. It is the case of the petitioners, as per pleadings, that they are the legal heirs of late Mst. Salma Bibi also known as Salma Khatoon/Salma Zaheen, daughter of Hazrat Baba Muhammad Tasin Zaheen Shah. The deceased, as well as her father, were owners of various valuable properties, including agricultural lands, charitable institutions, and properties associated with a Dargah. During their lifetime, these properties were being managed by their appointed Kamdar, namely Anwar Pirbhai. Following the demise of the petitioners’ grandfather in the year 1978, the said Kamdar, taking undue advantage of his unrestricted access to the household, committed a grave breach of trust. In collusion with the stepbrothers of the petitioners’ mother, he dishonestly removed and misappropriated crucial documents, including original title deeds, testamentary instruments, and other valuable assets such as diamonds. This act resulted in the deprivation of the petitioners’ lawful inheritance and initiated a prolonged series of litigations concerning the said properties, including disputes relating to the Dargah, cooperative lands, charitable organizations, and corporate entities. After the death of Anwar Pirbhai in 1995, the custody of the misappropriated documents remained with his successors, particularly Mohammad Atif (his son-in-law) and one Parvez Rupani, who alleged to be operating from abroad. These individuals have not only continued to unlawfully retain the original documents but have also concealed and disposed of various properties belonging to the

petitioners' deceased mother, including prime lands situated in Deh Songal and other areas of Karachi, often by manipulating or destroying official revenue records. Despite these challenges, the petitioners, through persistent efforts and litigation, have recently regained possession of the Dargah property in compliance with orders passed by this Court. However, disputes relating to other properties remain unresolved, particularly due to the non-cooperation of revenue authorities and alleged collusion with land grabbers. The petitioners have approached the relevant authorities, including the Commissioner Karachi and the Senior Member, Board of Revenue (SMBR), seeking verification and reconstruction of the revenue record (khatas) standing in the name of their deceased mother. Copies of such representations have already been placed on record. Recently, the petitioners were able to trace certain properties, including land measuring 4 acres in Survey No.32, Deh Drigh Road, and land measuring approximately 16.32 acres in Survey Nos.353, 380, and 382, Deh Sharafi, District Korangi, Karachi. On the basis of available revenue entries, inheritance mutations (foti khata) were effected in their favour. However, it transpired that these lands are presently under government use, including roads, water conduits, and settlements such as Ahmedia Colony. The concerned Mukhtiarkars have taken the position that the subject lands have either been acquired or otherwise utilized by the government and, therefore, are no longer available for possession. At the same time, it is contended that the competent authority, particularly the Member, Land Utilization Department, has the jurisdiction either to regularize such position through exchange orders or to allot alternate land in lieu thereof. In such circumstances, the petitioners assert that irrespective of whether the land has been formally acquired or otherwise utilized by the State, they are legally entitled to compensation, either in the form of alternate land of equivalent value in the same or adjacent Deh, or monetary compensation determined on prevailing market rates through the appropriate forum. It is further submitted that despite repeated requests and compliance with procedural requirements, the respondents have failed to provide the relevant record or grant the petitioners their lawful entitlement. Instead, the petitioners are being subjected to undue harassment, threats, and coercion, with the apparent objective of discouraging them from pursuing their legitimate claims. The conduct of the respondents is particularly alarming in light of allegations that valuable state and private lands in the vicinity are being encroached upon by influential land mafias with the tacit support of certain officials. The petitioners submit that their rights in the subject properties are lawful and protected under the law, and any attempt to deny or frustrate such rights without due process is illegal, arbitrary, and violative of fundamental rights. The petitioners have no adequate or efficacious remedy available except to invoke the constitutional jurisdiction of this Court. It is also pointed out that, due to continued disputes and conflicting claims regarding title and entitlement, the petitioners have already instituted a

civil suit for declaration and injunction before the competent Court, seeking formal adjudication of their ownership rights in respect of the subject lands. The said suit is presently pending adjudication. In these circumstances, the petitioners seek appropriate directions for protection against harassment, reconstruction and verification of revenue record, and grant of alternate land or compensation in lieu of the lands, which have been utilized or are otherwise not available for possession.

3. The learned counsel for the petitioners pointed out that on 13.06.2024, this Court directed the Nazir to examine the record with all concerned officials and, if the claim of the petitioner was found justified, to ensure necessary entries and submit compliance. Pursuant to orders, reports by the Mukhtiarkar and Deputy Commissioner stated that Survey Nos.353, 380, and 382, Deh Sharafi, had been acquired by KDA in 1960 and compensation paid to Ahmedia Anjuman Ishaat-e-Islam, Lahore, and that no state land was available for alternate allotment. The Petitioners disputed this, alleging absence of acquisition record, lack of compensation proof, and continued encroachment. Subsequently, alternate land in NC-215 was first identified but later cancelled on Petitioners' request. It is submitted that another alternate land in Nai Malir Survey No.138, Deh Drigh Road was entered in their favour, but possession was not handed over due to objections.

4. However, through the statement, at later stage, the Petitioners expressed their willingness to surrender such land subject to compensation or equivalent alternate land in such situation a report was called from the SMBR vide order dated 16.02.2026; and, in compliance with Court directions, a joint meeting was held on 09.03.2026 by the SMBR and Secretary, Land Utilization Department.

5. The Joint report reveals that the Petitioners failed to produce original title documents of the subject claimed land, portraying that they were stolen in 1978 and relied only on photocopies. However, it was observed by the senior revenue authorities that the Revenue record showed doubtful entries in favour of the petitioners, while official record indicated acquisition of Deh Sharafi land by KDA with compensation already paid. It was also noted by them that subsequent revenue entries in favour of the Petitioners were made without lawful basis and contrary to revenue law. The high-powered committee finally concluded that the Petitioners' claim was unsupported by documentary evidence, rendering their claim for compensation or alternate land untenable.

6. Upon being confronted with the factual position of the case, a question was raised with regard to maintainability of the petition based on such report, the learned counsel for the Petitioners sought time to respond to the report, and the

matter was accordingly adjourned. However, later on, the learned counsel for the petitioners has filed detailed objections to the aforesaid report submitted by Respondent No.1 SMBR, Secretary Land Utilization department; and, submitted that paragraphs 1 to 5 of the report are merely formal in nature and do not call for any specific response. With regard to the findings relating to land measuring 04 annas share (25%) in Survey No.32, Deh Drigh Road, it is submitted by the counsel that the absence of original title documents in possession of the petitioners has already been sufficiently explained in the main petition. However, it is added that the petitioners have consistently maintained, in various proceedings since 1978-79, that all original documents, valuables, and records were unlawfully removed by their late Kamdar, Anwar Pirbhai, in collusion with other interested persons, whereas the FIRs were also lodged in this regard. Subsequently, after regaining possession of the Dargah property pursuant to orders passed in constitutional petitions, the petitioners, through considerable effort, were able to trace certain official revenue records relating to Deh Drigh Road and Deh Sharafi. It is submitted that on the basis of such record, inheritance mutations (foti khata) were effected in their favour without any monetary consideration. It is emphasized that upon demarcation carried out by the Survey Superintendent, it was revealed that the subject land was being utilized for public purposes, including water conduit lines and Shah Faisal Colony Road. It is further submitted that the report of the SMBR proceeds on a misconceived basis by treating the non-availability of record relating to the original seller, namely Shoukat Ali son of Khursheed Ali, or absence of prior corresponding entries, as proof that Revenue Entry No.52 dated 12.07.1971 is forged. It is submitted that such conclusion on the part of the committee is arbitrary and unsupported by any proper inquiry. It is urged that the SMBR has failed to determine, from the available official record, as to who is the lawful owner of the said 25% share if the petitioners' entry is to be discarded. No investigation was conducted regarding the missing or untraceable official record, nor was any effort made to reconcile the historical entries. He added that it is a settled principle that, in the absence of rebuttal evidence or any competing claim, a presumption of correctness attaches to long-standing revenue entries. In the present case, for more than five decades, no third party has come forward to challenge the petitioners' claimed share in the land, which admittedly remains private land and not State land. Furthermore, the remaining 75% share in the same survey number has never been disputed, thereby reinforcing the petitioners' claim to their proportionate 04 annas share. With respect to land bearing Survey Nos.353, 380, and 382 situated in Deh Sharafi, the petitioners' counsel reiterate that the absence of original documents has already been explained due to the historical theft of record. The findings of the SMBR regarding these lands are also flawed and misleading. The SMBR has relied upon Entry No.314 to assert that the land was acquired by the Karachi Development

Authority (KDA) through notifications issued in 1960 and that compensation was paid to Ahmedia Anjuman Ishaat-e-Islam, Lahore. However, this conclusion is based on incomplete and selective consideration of record; that the SMBR has failed to properly examine or disclose the corresponding entries, particularly Entry No.315, which reflects the interest of the petitioners' predecessor. Moreover, there is no conclusive evidence available on record to establish that the alleged acquisition proceedings were lawfully completed; that no award, payment record, or proof of actual disbursement of compensation has been produced. It is further submitted that the relevant revenue entries appear to have been manipulated during the re-writing of record in 1985-86, as earlier entries from the record of rights of 1954-55 do not support the claim of acquisition in the manner asserted. Additionally, various official sources, including officers of KDA, the Sindh Master Plan Authority, and the Land Acquisition Office, have either denied or failed to confirm the existence of complete acquisition record, approved layout plans, or proof of possession having been taken over by KDA. Even before the Nazir of this Court, the concerned revenue authorities were unable to produce conclusive material, and such position has already been noted in earlier judicial proceedings. He added that despite these material discrepancies, the SMBR has summarily declared the petitioners' claim as bogus without undertaking any proper determination as to the true ownership of the land; that no finding has been given as to who, in fact, holds title to these lands if the petitioners' claim is to be rejected. Similarly, if the petitioners' 25% share is forged, no explanation is provided regarding the remaining shares or ownership structure. It is submitted that the SMBR has merely taken advantage of the petitioners' inability to produce original documents owing to circumstances beyond their control and has failed to conduct a fair and comprehensive inquiry based on the entirety of the available record. In view of the foregoing, it is prayed that the competent authority, including the SMBR and Member, Land Utilization Department, be directed to undertake a proper determination of the petitioners' revenue entries and khata in respect of Survey No.32, Deh Drigh Road, in accordance with Section 164 of the Sindh Land Revenue Act, 1967. In the event that such entries are found to be invalid, appropriate orders for their cancellation may be passed; however, if the entries are found to be genuine, the petitioners be granted due relief in the form of compensation at prevailing market value or allotment of alternate land of equivalent value. It is further submitted that, insofar as Entry No. 315 pertaining to Deh Sharafi is concerned, the same has already been examined and effectively adjudicated upon in terms of the order dated 13.06.2024 passed by this Court; therefore, no interference with the said finding is warranted at this stage.

7. Learned counsel for the petitioners has also filed a statement dated 30.03.2026, with the narration that in compliance with the order dated

29.12.2023 passed by this Court, the respondents were directed to ascertain and report upon the availability of alternate State land to be allotted to the petitioners in lieu of their lands situated in Deh Sharafi and Deh Drigh Road. However, when certain alternate land in Deh Drigh Road was proposed, various quarters raised serious objections and extended threats to the petitioners, thereby creating an atmosphere of uncertainty and hindrance in the implementation of the Court's directions. In view of the persistent disputes regarding title, revenue entries (khatas), and entitlement of the petitioners, they have been constrained to institute civil proceedings for Declaration and Injunction before the competent Civil Court, which is presently pending adjudication before the learned IV-Senior Civil Judge, Karachi South, bearing Suit No.10352 of 2025. He submitted that through the said suit, the petitioners have sought a declaration that their deceased mother, Mst. Salma Bibi was the lawful and rightful owner of various properties, including: land measuring 04-00 acres (four annas share) in Survey No. 32, Deh Drigh Road; land measuring 07-12 acres in Survey Nos.13, 14 and 15, Deh Drigh; land measuring 16-32 acres in Survey Nos. 353, 380 and 382, Deh Sharafi; and land measuring 12-38 acres (four annas share) comprising Survey Nos. 31, 32, 33, 38, 261, 262, 263, 266, 267, 270, 271, 312 and 313 situated in Deh Landhi. The petitioners have further prayed for a declaration that all official mutations, including inheritance entries, alternate land allotments, exchanges, or adjustments made by the officials in respect of the aforesaid lands, or in lieu thereof, are legal, valid, and binding upon the defendants and their successors. It has been further sought that the defendants be restrained from disputing or denying such mutations or from interfering in the petitioners' lawful ownership rights. Additionally, the petitioners have sought a decree of permanent injunction restraining the defendants, their agents, officials, or any other persons acting on their behalf from interfering with the petitioners' possession, ownership rights, or from taking any coercive or adverse actions in relation to the subject properties. The petitioners have also prayed for a direction to the defendants to trace and reconstruct the revenue record (khatas) of the deceased from the official record of rights, including the re-written revenue record of 1954-55, and to restore or reconstitute the same in accordance with law. In the alternative, it has been requested that an independent Administrator be appointed by the Court to undertake such an exercise in the event of failure on the part of the authorities.

8. During proceedings, Petitioners expressed their willingness to surrender the alternate land, subject to lawful compensation or equivalent land. However, due to a pending Civil Suit No.10352/2025 on the same subject, counsel for the petitioners upon instructions so obtained from the petitioners, agreed that the matter be decided by the trial court independently without being influenced by the observation of the SMBR and LU Department.

9. However, the learned AAG expressed reservations regarding the aforesaid proposal, particularly the suggestion that the matter be decided without being influenced by the observations of the SMBR and the Land Utilization Department. He contended that, even if this Court issues directions to the trial Court, the petitioners are not entitled to the reliefs claimed, as their title to the subject land is disputed by the revenue authorities. He further submitted that, in exercise of constitutional jurisdiction, this Court cannot adjudicate upon questions of title or possession, nor grant such relief in extraordinary jurisdiction. According to him, the issues raised require recording of evidence, and no definitive findings can be rendered in these proceedings. He, however, agreed that this Court may direct the SMBR, and the Secretary, Land Utilization, to file written statements incorporating the material contained in the joint report, so that the competent Court having jurisdiction may decide the matter in accordance with law. Be that as it may it is for the Revenue authority to take stance, at this stage no observation can be given which may prejudice the case of either party in the Civil proceedings.

10. Accordingly, without touching the merits of the case and without prejudice the rights of the parties in the pending *lis* and with consent of the parties present in Court, the petition along with all pending application(s) stands disposed of with directions that the learned IV-Senior Civil Judge Karachi South shall decide the Civil Suit No.10352/2025 on its own merits, based on pleadings of the parties, uninfluenced by observations of this Court or other revenue authorities.

JUDGE

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