

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Const. Petition No.D-300 of 2017

Date	Order with signature of Judge
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1. For hearing of CMA No.2064/2017
2. For hearing of main case

26-10-2022

Mr. Shabbir Ali Bozdar, Advocate for the petitioner
Mr. Sawan Khan Jagirani, Advocate for Respondents / SIDA
Mr. Noor Hassan Malik, Assistant Advocate General
Riaz Ahmed Assistant Survey Superintendent Khairpur

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Through instant petition, the petitioner has impugned the Notice (*Annexure-G available at Page-87 of the memo of petition*) issued by the Assistant Executive Engineer, Mahesro Sub-Division @ Ghotki / respondent No.6 for vacating the land claiming to be the land of Irrigation Department. It is matter of record that in compliance of order dated 22.12.2020, a joint survey was conducted by the Survey Superintendent, Khairpur, regarding the land of the petitioner bearing Survey Nos. 1047, 1048, 1049, 1050 and 1051, Ward 'A', Sheet No.27 of Ghotki, which reflects that the land of the petitioner is away from Bagu Wah, constructed on the land of Irrigation. It is also mentioned in the report that the survey was conducted in presence of officials of the Irrigation Department, who did not take any objection. Thereafter on 15.09.2022, learned counsel appearing for respondents No.2, 3, 5 and 6/ SIDA sought time for filing objections on survey report, which he filed on 29.09.2022.

The stance taken by the said respondents is that in accordance with the specification of any minor that may be up to 50 cusecs, the same remain and maintained upto 35.1 feets from the side of inspection path. It is further alleged that the petitioner has encroached the land of the said minor and report so submitted by Superintendent of Survey Department is contrary to the fact. It has further been submitted that there is no sketch or map

attached with the report. Learned counsel, however, admits that so far the subject land is concerned, the claim of the respondents No.2,3,5 and 6 is not supported with any title document; however, the said respondents have relied on the technical aspect that "a minor up to 50 cusecs is maintained up to 35.1 feet from the side of inspection path". Such position of the said respondents prima facie does not entitle them to claim the title of the land regarding that the rights and title is vested upon any other person than the said respondents.

Hence, we disposed of this petition with directions to official respondents that in case their claim regarding the subject land is based on any title document and the petitioner has illegally occupied the same, no action shall be taken against the petitioner except in accordance with law by approaching the relevant forum.

JUDGE

JUDGE

Suleman Khan/PA