

HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD

C.P. No.D-164 of 2012

[Mst. Mehmood-un-nisa Begum and Others vs. Province of Sindh and Others]

BEFORE:

JUSTICE ADNAN-UL-KARIM MEMON

JUSTICE RIAZAT ALI SAHAR

Mr. Sunder Das, advocate for petitioners

Mr. Abid Hussain Chang, advocate for respondent(s)

Mr. Rafique Ahmed Dahri, Assistant A.G. Sindh a/w Deputy Secretary
BoR (Qamaruddin), Land Acquisition Officer (Hasnain Raza), and
Assistant Engineer (Manzoor Ahmed)

Date of hearing & decision: 13.11.2025

ORDER

ADNAN-UL-KARIM MEMON J.- Petitioner prayed as under:-

- i) Declare respondents' failure to determine and pay compensation as illegal, discriminatory, and violative of Articles 4, 9, 18, 23, 24, and 25 of the Constitution.
- ii) Direct respondents to determine and pay compensation for the acquired land.

2. The case of the petitioners is that they claim to be the owners of agricultural land bearing S.Nos. 145, 146, 149, 359, 360, 361, 362, 363, 369/A&B, admeasuring 32-10 6-26 acres in Deh Baghban, Taluka and District Dadu; that an area of 6-26 acres was taken by respondent No.1 in 1971 for construction of Indus Highway; that despite correspondence the respondents have failed to finalize or pay any compensation though respondent No.2 conducted an inquiry and determined the market value, the award remains unsigned and no payment has been made. The petitioners have no other efficacious remedy, hence have filed the instant petition.

3. Learned counsel submitted that the petitioners are the lawful owners of agricultural above land acquired for construction of Indus Highway; that despite repeated correspondence and representations the respondents failed to initiate or complete the mandatory legal process under the Land Acquisition Act, 1894; that although respondent No.2 conducted an inquiry and assessed the market value of the acquired land, the award was never finalized or signed,

resulting in a complete denial of compensation to the petitioners. He submitted that the inaction of the respondents amounts to illegal deprivation of petitioners' proprietary rights guaranteed under Articles 23 and 24 of the Constitution, besides violating their fundamental rights to equality, dignity, and protection of law under Articles 4, 9, and 25; that construction of highway not only resulted in the acquisition of the petitioners' land but also caused severance of the remaining area and destruction of watercourses, thereby inflicting additional damages for which compensation ought to have been determined and paid. When confronted by the Court regarding the disputed title of the petitioners over the subject land, counsel referred to page 15 of the petition and submitted that the petitioners have placed on record documents showing them to be the owners of the land in question, and therefore they are entitled to compensation under the law. He maintained that the respondents' failure to recognize the petitioners' ownership or to compensate them despite the land being used for a public project is malicious, arbitrary, and discriminatory. He accordingly prayed that the petition be allowed, and respondents be directed to determine and pay due compensation along with any ancillary damages.

4. Conversely, counsel for NHA submitted that they initiated land acquisition for widening and dualization of Indus Highway (N-55) covering Makhdoom Sahib, Deh Baghban, Deh Kalhora, Bhand, Khudaabad Rayati, Markhpur, Pipri, and Khasa Chandiam, Taluka & District Dadu. Section 6 of the Land Acquisition Act, 1894, notified by the Commissioner Hyderabad Division (Gazette Notification No. 89 Comm/2012, dated 6th June 2012), confirms the acquisition of S. Nos. 149, 146, 369/A, 359, and 360 in Deh Baghban for the Indus Highway project (Flag-A). NHA deposited Rs.1,50,00,000/- with the Deputy Commissioner Dadu for land acquisition; Rs.50,00,000/- was transferred to AC/LAC Dadu (Flag-B). Accordingly, an award under Section 11 of LAA 1894 was issued by AC/LAC Dadu (Office No. Han/459/2012 dated 07.05.2012), fixing Rs.400,000/- per acre for all relevant Dehs except Deh Pipri (Flag-C). Compensation was paid to landowners as per AC/LAC Dadu list dated 19.10.2012 (Flag-D), and the acquired lands were duly mutated in favor of NHA by the Revenue Department. He requested that the petition be dismissed as NHA acquired the land lawfully under LAA 1894, completing all legal formalities and paying the owners due compensation. As per the land compensation list for Deh Baghban, Taluka & District Dadu, provided by the AC/LAC Dadu to NHA on

19.10.2012, the landowners were paid compensation. As per the land compensation list for Deh Baghban, Taluka & District Dadu, provided by the AC/LAC Dadu to NHA on 19.10.2012 (copy enclosed at Flag-D), the landowners were duly paid compensation as follows:

- (1) 1st May 2012, M. Soomro S/o Haji Khan, owner of S. Nos. 146 and 149 with a total area of 0-06 acres, received compensation of Rs. 106,464 for his entire share.
- (2) 17th May 2012, Ghulam Rasool S/o [father's name not specified], owner of S. No. 359 measuring 0-04 acres with a share of 0-17½, was paid Rs. 17,326.
- (3) 17th May 2012, Muhammad Essa, owner of S. No. 360 measuring 0-04 acres with a share of 0-17¾, also received Rs. 17,326.
- (4) 18th May 2012, Ali Hassan S/o M. Bux Jamali and Qadir Bux S/o Dhani Bux, owners of S. No. 369/A measuring 0-04 acres with a share of 0-17½, received Rs. 8,364.
- (5) 15th June 2012, Qambarani and Qadir Bux S/o Dhani Bux Qambarani, owners of S. No. 359 measuring 0-04 acres with a share of 0-17½, were paid Rs. 8,364.

All payments were made in accordance with the official land compensation schedule.

5. Learned A.A.G submitted that the petitioners are not owners of land; as such, no case for compensation is required. He prayed to dismiss the petition.

6. In light of the above submissions of the parties, it is clear that the respondents have categorically disputed the petitioners' title over the subject land. The record produced before this Court reflects that an Award under the Land Acquisition Act, 1894 has already been passed, compensation has been disbursed to the persons shown as owners in the revenue record, and the name of the petitioners does not appear in the said Award. In these circumstances, this Court, while exercising constitutional jurisdiction under Article 199 of the Constitution, cannot undertake the determination of disputed questions of fact, nor can it declare the petitioners as owners of the acquired land or direct reversal of concluded Award proceedings. The petitioners, if they assert rights in the subject land, are first required to establish their title before the competent civil/revenue forum by producing the relevant documentary evidence, including any record to demonstrate that their claimed property was, in fact, utilized in the land acquisition proceedings. If the petitioners succeed in establishing their lawful title, they shall be at liberty to approach the Land

Acquisition Officer for redressal of their grievance including assessment or release of compensation strictly in accordance with law. At this stage, however, as the petitioners' title remains unsubstantiated and disputed by the Government of Sindh, no case for interference is made out.

7. Consequently, this petition is held to be not maintainable under Article 199 of the Constitution and is hereby dismissed along with all pending applications.

JUDGE

JUDGE

Karar_Hussain/PS*