

HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD

R.A No.231 of 2010

[Abdul Razzak Sheikh Kaloo vs. Pakistan Railway & Others]

Mr. Qamar Mehmood Baig, advocate for applicant

None present for the respondents

Date of hearing and decision: 27.04.2026

J U D G E M E N T

SYED FIAZ-UL-HASSAN SHAH, J:- The applicant has challenged the judgment dated 08.03.2010 followed by decree dated 22.03.2010 passed by VIIth Additional District Judge Hyderabad (**Appellate Court**) in Civil Appeal No.72 of 2008, upholding the judgment dated 30.04.2008 and decree dated 07.05.2008 passed by IIIrd Senior Civil Judge Hyderabad (**Trial Court**) in F.C Suit No.261 of 2000, whereby the suit of the plaintiff was dismissed.

The facts of the matter are that the applicant/plaintiff had filed a suit for declaration and injunction against the respondent Pakistan Railway in respect of Quarter No.270/C situated at American Quarter Latifabad Hyderabad (**Subject Quarter**) that the respondent No.1 is bound to transfer the subject quarter to the applicant/plaintiff as per their policy and the alternative prayer was for injunction. The respondent Pakistan Railway filed written statement and in paragraphs No.6 to 10 categorically admitted and undertook that the applicant/plaintiff shall not be ejected from the subject quarter.

Learned counsel for the applicant/plaintiff contends that both the Courts below have failed to appreciate that under Exh.42 dated 16.10.1978 the respondent Pakistan Railway had given a certificate that they shall not get the subject quarter vacated until the fate of the kachiabadi is decided and subsequently Hyderabad Municipal Corporation vide its resolution dated 28.06.1995 decided to issue certificate while declared kachiabadi for entire area of American Quarters, Railways Colony and American Barracks. Counsel states that during course of evidence applicant/plaintiff had produced such Fard-e-Haqiqat and letter issued by the Project Director Kachi Abaddi before the trial Court at Ex.40 and 41, therefore, the applicant/plaintiff had legitimate right, but both Courts below have failed to appreciate such fact and passed the impugned judgements and decrees by non-reading and misreading of the record.

On other hand no one appeared on behalf of the respondent Pakistan Railway despite the fact that vide Order dated 20.04.2026 specific directions were issued to either Director General Pakistan Railways appear on the next date or his concerned officer.

I have heard the learned counsel for the applicant and perused the material available on record. It appears that both Courts below held that the subject quarter belongs to respondent Pakistan Railway as such the applicant/plaintiff is not entitled to seeks declaration in respect of the property that vested with the Pakistan Railway and that under Section 19(4) of Sindh Kachi Abadis Act, 1987 the area reserved for railway cannot be declared as kachi abadi; however, both Courts below had not apprised the Ex-42 a certificate dated 16.10.1978 which demonstrates that Pakistan Railways given categorical undertaking that they will not get the subject quarter vacated until the fate of kachi abadi is decided. Thereafter, the respondent Pakistan Railway had not brought on record any document to controvert that finally the dispute of katchi abadi had been controverted through a subsequent event nor any substantial documentary evidence /policy or notification was placed on record that the entire area cannot be regulated by the Hyderabad Municipal Corporation and their action declaring entire area as katchi abadi is illegal or invalid. Such contention is further substantiated by Ex.421 i.e resolution passed by Hyderabad Municipal Corporation issued by the Director, Directorate of Katchi Abadi as well as by the letter bearing No.T.O (R)/L/1034 dated 20.08.2002 addressed to Works Manager Carriage and Wagon Workshops, Pakistan Railways by the Assistant Director Katchi Abadi, Latifabad, Hyderabad.

Furthermore the pleadings of respondent Pakistan Railway had also confirmed that they would not dispossess the applicant/plaintiff from the subject quarter and no condition was put upon the applicant/plaintiff was under obligation to return back the possession of the subject quarter. It appears that government has given the land to kachi abadi through Directorate of Kachi Abadi Hyderabad Municipal Corporation and all occupants have been given allotment rights including the applicant/plaintiff, therefore, both the Courts below erred while holding that applicant/plaintiff is not entitled for the subject quarter.

In view of the Ex.40, the applicant/plaintiff has substantial right which can only be annulled by the competent authority. The legal character and locus standi of the applicant has also been confirmed by the respondent Pakistan Railway in paragraph No.6 to 10 of the written statement, therefore, this revision application is allowed and the impugned judgment and decrees are set aside, which otherwise was a case of misreading and non-reading of record. The applicant/plaintiff is entitled to the subject quarter, therefore, he shall not be dispossessed during the

validity and subsistence of the allotment issued by the Hyderabad Municipal Corporation. The trial Court is directed to draw the decree accordingly.

JUDGE

Saiad Ali Jassar