ORDER SHEET

THE HIGH COURT OF SINDH, BENCH AT SUKKUR

C. P. No. D – 675 of 2023
[Abdul Raqeeb & others v. Province of Sindh & others]

Present:
Mr. Justice Adnan Iqbal Chaudhry
Mr. Justice Muhammad Hasan (Akber)

For Petitioners	:	Mr. Noor Hassan Malik, Advocate
For Respondent No.2	:	Mr. Qaimuddin Malano, Advocate
For Respondents No.1 & 3 to 8	:	Mr. Ghulam Abbas Kubar, Assistant Advocate General Sindh along with Saeed Ghanghro, Assistant Mukhtiarkar, Rohri on behalf of Assistant Commissioner, Rohri, SIP Dhani Bux Bhutto on behalf of SSP, Sukkur.
Date of hearing	:	19.10.2026
Date of decision	:	19.10.2026

O R D E R

Adnan Iqbal Chaudhry J.– The petition has been brought to challenge order dated 28.03.2023 passed by the Anti-Encroachment Tribunal, Sukkur, under the *Sindh Public Property (Removal of Encroachment) Act, 2010*.

2. The application before the Tribunal was filed by respondent No.2, alleging that the petitioners have encroached upon a graveyard and have installed a gate at the graveyard to prevent the family of respondent No.2 from entering the graveyard where his relatives are buried. The Tribunal disposed of the application by directing the Assistant Commissioner (Revenue), Rohri, to remove the encroachment and the lock placed on the gate to the graveyard.

3. The case of the petitioners is that the graveyard is on their private land where their relatives are buried, and respondent No.2 has no nexus with the same. On the other hand, it is contended by respondent No.2 that the graveyard is situated on public property.

4. We have gone through the impugned order passed by the Tribunal. The primary question before the Tribunal was or ought to have been whether the subject land was public property or not. If it was not, the matter should have ended there while referring the parties to the ordinary civil court for adjudication of title to private land. However, the Tribunal simply observed that since the petitioners, who were respondents before it, failed to produce any document to substantiate their claim to the graveyard, it was assumed that the graveyard was on public property. No documentary evidence whatsoever was discussed by the Tribunal in that regard. The report submitted to us today by the Mukhtiarkar is also vague as to the title of the subject land.

5. In view of the foregoing, the impugned order dated 28.03.2023, passed by the Anti-Encroachment Tribunal, Sukkur on Application No.08/2023, is set aside, and the matter is remanded to the Tribunal to decide the question whether the graveyard is over public property after recording evidence under the summary procedure provided in Section 14(3) of the *Sindh Public Property (Removal of Encroachment) Act, 2010*. Let that be done without undue delay. In the meanwhile, the petitioners shall not prevent respondent No.2 from attending the graves on the subject land.

J U D G E

J U D G E

Naveed Ali