

IN THE HIGH COURT OF SINDH, CIRCUIT COURT
LARKANA

Constitutional Petition No.D-688 of 2015

Before:

Mr. Justice Riazat Ali Sahar,
Mr. Justice Ali Haider 'Ada'.

Petitioners: Abid Hussain and another
through Mr. Asif Ali Abdul Razak
Soomro, advocate

Respondent No. 1 to 7: Through Mr Saeed Akber Siyal,
Assistant Advocate General.

Federation of Pakistan: Through Mr. Oshaq Ali Sangi,
Assistant Attorney General for
Pakistan.

Date of hearing: 16-09-2026
Date of Order: 29-09-2026

ORDER

Ali Haider 'Ada', J:-, Through this petition, the petitioners have raised a grievance that their property was encroached upon by police as well as Rangers officials for the purpose of establishing a police picket and Rangers check post. Since, according to the petitioners, the property in question belonged to them, such an act was beyond the lawful authority of the respondents and amounted to an act of trespass. Consequently, they have approached this Court.

2. Learned counsel for the petitioners mainly argued that the premises of the petitioners were duly covered by their lawful entitlements. However, instead of adopting the prescribed legal procedure for acquisition of the land, if so required, the respondents directly entered the premises and established a police picket as well as Rangers check post, thereby taking control of the land.

3. On the other hand, a Commissioner was appointed by this Court, who submitted his report on 19-08-2015, wherein it was reported that the room in question had been constructed by the Irrigation Department and was under the custody of the Rangers/police. It was further reported that the police picket had been established on government land and not upon the property of the petitioners. It was also reported that a hotel belonging to petitioner No. 1 was situated there, and the main grievance of the petitioners was that the police picket as well as the Rangers check post had been established in front of the said hotel. Beyond this, no further grievance was raised by the petitioners.

4. Replies/comments were filed by the respondents, wherein the official respondents mainly contended that, owing to the gravity of the offences and the prevailing law and order situation, the establishment of the police picket as well as the Rangers check post was essential. It was further contended that no property belonging to the petitioners had been usurped or encroached upon, nor had any construction been made on the private property of the petitioners. Rather, the relevant construction was situated on government/state land. Therefore, according to the respondents, the petition was not maintainable, particularly in view of the disputed questions of fact involved therein.

5. Learned Assistant Attorney General as well as learned Assistant Advocate General relied upon the aforesaid reports and submissions.

6. Heard and perused.

7. Firstly, it is incumbent upon the petitioners to establish the boundaries and extent of the property allegedly encroached upon by the police or Rangers officials. If demarcation of the boundaries is required, this Court cannot undertake such an exercise in Constitutional jurisdiction, as

determination and demarcation of property boundaries falls within the domain of the revenue hierarchy or any other competent forum prescribed by law.

8. As regards the contention of the respondents that no police picket or Rangers check post had been established upon the premises belonging to the petitioners, the material on record makes it clear that the property in question essentially belonged to the State. The grievance of the petitioners was, in substance, that their business had been disturbed because the police picket and Rangers check post had been established in front of their hotel. No doubt, the right to carry on a lawful business is protected by the Constitution and cannot be interfered with except in accordance with law. At the same time, measures taken by the police and other law-enforcement agencies for maintaining law and order and curtailing criminal activities are also legitimate governmental functions. The mere establishment of a police picket or check post in the vicinity of a business premises, therefore, cannot by itself be construed as an unlawful interference with the petitioners' rights, particularly where the property upon which the structure stands is found to be State land.

9. The grievance of the petitioners, therefore, substantially relates to the removal of the check post from in front of their hotel. It has also been contended on behalf of the respondents that the presence of the hotel attracted a considerable number of members of the general public and, allegedly, certain criminal elements as well. In such circumstances, the establishment of a police pickets or check post for maintaining law and order cannot, without further proof of illegality, be treated as an unlawful act.

10. In view of the above facts and circumstances, the matter involves disputed questions of fact, particularly with regard to

the ownership, boundaries and alleged encroachment upon the property. Such disputed factual questions cannot appropriately be determined by this Court in exercise of its constitutional jurisdiction in an ordinary writ petition. Reliance in this regard is placed upon the judgments of the Honourable Supreme Court in ***Special Secretary-II (Law and Order), Home and Tribal Affairs Department, Government of Khyber Pakhtunkhwa, Peshawar and others v. Fayyaz Dawar*** (2023 SCMR 1442), ***Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and others v. Intizar Ali and others*** (2022 SCMR 472), ***Province of Punjab through Secretary Communication and Works Department, Lahore through Chief Engineer (North/Central) Punjab Highway Department, Lahore v. Yasir Majeed Sheikh and others*** (2021 SCMR 624), and ***Messrs Fateh Yarn (Pvt.) Ltd. Faisalabad v. Commissioner Inland Revenue Faisalabad and others*** (2021 SCMR 1133).

11. Keeping in view the facts and circumstances of the case, the instant Constitutional Petition is not maintainable and is accordingly dismissed. However, the petitioner shall be at liberty to approach the competent forum, in accordance with law, for determination of the demarcation, boundaries and identification of the area in question.

JUDGE

JUDGE