

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI.**  
**C. P. No.D- 3488 of 2017**

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**DATE:** **ORDER WITH SIGNATURE(S) OF JUDGE(S).**

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**Present:**

**Mr. Irfan Saadat Khan, J**

**Mr. Muhammad Faisal Kamal Alam, J.**

**Priority**

1. For order on CMA No.23660/17
2. For order on Office Objection
3. For hearing of CMA No.16235/17
4. For hearing of Main Case

**21<sup>st</sup> September, 2017**

Mr. Shoukat Ali Phull, Advocate for the Petitioner.

M/s. S. Masroor Ahmed Alvi and Dhani Bux, Advocates for Respondent No.2.

Mr. Miran Muhammad Shah, A.A.G.

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Through this petition, the Petitioner is seeking restraining orders against the Respondents; Respondent No.1 is Province of Sindh through its Secretary, Local Government; whereas, Respondent No.2 is Managing Director of Karachi Water & Sewerage Board (“KWSB”).

As averred in the Petition, Petitioner is seeking his entitlement over a piece of land measuring 18 Ghuntas (2260 Square Yards) falling in Deh Gujro and has been mentioned as plot No.289. In Paragraph No.9 of the Petition, it is also stated that there are two adjacent plots to above plot, bearing plots No.306 and 307, in respect of those, the present Respondents are also carrying out unlawful activities and making attempts for encroachment. In this regard, the Petitioner has invoked the jurisdiction of learned District & Sessions Judge, Karachi East, under Section 22-B of Criminal Procedure Code, 1898, and some directions were issued. However, instead of addressing grievance of the Petitioner, the Respondents got a false F.I.R. lodged against the Petitioner.

The counsel for Respondent No.2-KWSB has denied that the said Respondent has committed any illegal act of encroachment.

Arguments heard and record perused.

The order of Deputy Commissioner dated 01.08.1993, appended with main petition, on which the Petitioner is relying to prove his title relating to above referred lands, is in respect of a piece of land falling in Survey No.520, in Deh Gujro, allotted in favour of one P. R. Siddiqui, M.D. International Bureau, who according to Petitioner, was a predecessor-in-interest of latter (Petitioner). In the said order, the said predecessor-in-interest was also allocated an area of 2200 Square Yards in Naiclass No.156, Deh Okewari, but said allotment order, which is a basic document in terms of Section 10 of the Colonization & Disposal of Government Land (Sindh) Act, 1912, does not mention the plot No.289. Similarly, the learned District and Sessions Judge has already issued directions on the application of present Petitioner. In the circumstances, the Petitioner should pursue the adequate and efficacious remedy. In addition to this, the averments of the petition itself state that on the adjacent plots No.306 and 307, where the encroachment is purportedly being done by the Respondents, is a *sub judice* issue in another Constitutional Petition No.1315 of 1997.

In view of the above, it is very much apparent that present set of facts do not warrant issuance of writ of *mandamus* as plausible and undisputed material is not available on record, which can endorse the stance of the Petitioner about the encroachment and his allegations against the Respondents. Consequently, present petition being devoid of merits is dismissed along with pending application(s). However, Petitioner is at liberty to avail remedy at any other forum, if the law so permits and it is expected that both Respondents being officials shall act within the parameters of law and must discharge their functions fairly, justly and reasonably.

**Judge**

**Judge**

Riaz Ahmed/P. S\*