

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

R.A. No.66 of 2003.

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For hearing of C.M.A-349 of 2003.
2. For regular hearing.

23.11.2017.

Mr. Wali Muhammad Jamari, Assistant A.G.

None present for the respondents.

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1. Learned AAG states that in the present matter, the respondent No.1 claimed to have acquired rights by way of Sanad issued in respect of Goth Abad Scheme for an area of 3472 Sq. Ft. numbered as plot No.156, situated at Deh Nandhi Dali, Tapo Kathri, Taluka and District Hyderabad, and in this regard has filed FC Suit No.254/1998 on order for cancellation of the said Sanad. The said suit was dismissed at the trial stage, however, the civil appeal bearing No.232/2000 was filed, which was allowed vide impugned judgment dated 31.07.2002 from the Court of learned VIth Additional District Judge, Hyderabad, and as such the cancelation of the Sanad was declared to be unlawful.

2. It is contended on part of learned AAG that the element of possession was not examined by the issuing authority in the proceedings duly recorded in the subject order. It is further contended on part of the learned AAG that the learned appellate Court has not considered the element of actual physical possession, which is a pre-requisite for a valid Sanad of Goth Abad Scheme, as the formation of Goth Abad Scheme being to regularize the possession of land already in possession is present under said scheme as such the impugned order is liable to be set aside.

3. Having gone through the impugned judgment. Paragraphs No.10 and 11 of the impugned judgment discuss the same. It is however observed that the learned appellate Court has not touched the matter of possession, in the circumstances, the impugned order is set aside, as the non-discussion of the

substantive element of the proceedings is an incurable illegality. This revision stands allowed with no orders as to costs, and the matter is remanded to the learned appellate Court to decide afresh considering the fore-given after hearing the parties.

JUDGE

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