

ORDER SHEET  
**IN THE HIGH COURT OF SINDH AT KARACHI**  
**C.P No.D-570 of 2018**

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DATE

ORDER WITH SIGNATURE OF JUDGE

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Fresh Case.

1. For order on Misc. No.2402/2018 (U/App)
2. For order on Misc. No.2403/2018 (Exp/App)
3. For order on Misc. No.2404/2018 (Stay/App)
4. For hearing of main case.

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**26.01.2018**

Mr. Ghulam Rasool Mangi, Advocate alongwith Petitioner.

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1. Granted.
2. Granted subject to all just exceptions.
- 3-4. This is a Petition, whereby, the Petitioner has impugned Order dated 17.01.2018 passed by the Additional District Judge, Sujawal in Civil Revision Application No. 36/2017, wherein, the petitioner had challenged Order dated 11.11.2017, passed by the Senior Civil Judge on his Application under Order XXI Rule 58 CPC.

Learned Counsel for the Petitioner has referred to Order dated 03.03.2017 passed in C.P No.D-484/2017 by a Division Bench of this Court, wherein, while dismissing the Petition, the Court had observed that insofar as the execution proceedings are concerned, if the Petitioner has any objection in respect of execution, he may avail his remedy before the executing Court as per provisions of Order XXI Rule 58 CPC. Learned Counsel submits that such application was dismissed by the two Courts below without appreciating the facts. He has also referred to Page-135, which according to the learned Counsel is the Field Book Bandi dated 08.08.2017 as according to him the land never belonged to respondent No.1. He further submits that in fact it is a new development / cause of action of which the Executing Court should have taken note of.

We have heard the learned Counsel and perused the record. It appears that in the earlier round of litigation, since filing of Suit No.03/2000 and thereafter Appeal as well as Revision, the matter has been finally settled up to the level of Honourable Supreme Court, whereby, the Civil Petition for Leave to Appeal No. 255-K of 2016 stands dismissed vide order dated 18.7.2016. Thereafter, a review petition was also filed but of no avail. Subsequently, the petitioner filed CP No. 484 of 2017 before this Court and challenged the Execution proceedings, which was dismissed vide order dated 3.3.2017, but the petitioner was given an option to file an application under Order 21 Rule 58 CPC before the Execution Application. The Petitioner is claiming in his Application under Order XXI Rule 58 CPC that he is lawful owner of the plot in question since more than quarter of a Century. However, it appears that all these grounds were already raised in the earlier proceedings, which stand decided against the Petitioner up to the level of Apex Court, whereas, reliance placed on field Book Bandi dated .8.8.2017 is also of no avail, as according to the petitioner itself this is a new development / cause of action, and therefore, the Executing Court could not have taken note of the same. The provision of Order 21 Rule 58, in no manner allows the Execution Court to go beyond the mandate of the decree and only enables the Court to decide objections against the attachment of property. Here in this matter, the Petitioner is making the same argument, as has been made in the earlier round of litigation on merits of the case which already stands decided against him up to the highest Court.

In view of such position, we are of the opinion that no case is made out even for issuance of notice. Accordingly, the Petition is dismissed in limine.

**Judge**

**Judge**

Ayaz