

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.

Cr. Misc. Appln. No. S-278 of 2020

Date	Order with signature of Judge
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For hearing of main case.

**29.10.2020**

Mr. Zubair Ahmed Junejo Advocate for the applicant

Mr. Ghulam Shabir Mari, advocate for respondents No.1&5

Ms. Sobia Bhatti, A.P.G for the State.

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**IRSHAD ALI SHAH, J.-** On purchase of the landed property the applicant by way of making an application u/s 133 Cr.P.C sought for restoration of watercourse to irrigate his land under purchase. It was disposed of by learned IInd Civil Judge & Judicial Magistrate Badin vide his order dated 23.01.2020 by making following observation;

*"I am of humble opinion that at present the respondents not only stealing water but they also illegally stopped the legal share of applicant by burying original water course and dugout/excavated an illegal water course. Thus, I allow the instant application under section 137(3) Cr.P.C., and forward the matter to XEN Kazia Sub-division, Badin to take legal action against the respondents No.1 to 5 so also after proper visit and inspection dig out/excavate the water course 32-R on its original and sanctioned location and submit his report before this Court before 23.02.2020."*

2. On filing of Revision Application by the private respondents the above said order was set-aside by learned IInd Additional Sessions Judge, Badin vide his order dated 21.04.2020, which is impugned by the applicant before this Court by way of instant Cr. Misc. Application u/s 561-A Cr.P.C.

3. It is contended by learned counsel for the applicant that the private respondents have closed the watercourse illegally, such closure has caused

nuisance to the applicant. By contending so, he sought for setting aside of the impugned order.

4. Learned A.P.G for the State and learned counsel for the private respondents by supporting the impugned order have sought for the dismissal of instant Cr. Misc. Application by contending that the Civil litigation between the parties on subject land and watercourse is pending adjudication before the Court having jurisdiction.

5. I have considered the above arguments and perused the record.

6. The civil litigation on subject land and watercourse is pending adjudication before the Court having jurisdiction. It was between the private respondents and previous owner of the subject land. On its purchase the applicant without pursuing such Civil litigation straightaway sought for opening of the watercourse by making an application u/s 133 Cr.P.C. It was a shortcut procedure and perhaps was with view to override the civil litigation. It was given an end by learned Revisional Court very rightly by way of impugned order, which is not calling for any interference by this Court in exercise of its inherent jurisdiction.

7. In view of the facts and reasons discussed above, the instant Cr.Misc.Application fails and it is dismissed accordingly.

**J U D G E**

Ahmed/Pa,