

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Muhammad Faisal Kamal Alam, J.
Agha Faisal, J.

CP D 5581 of 2020 : Shamim Ahmed Siddiqui & Others
vs. Province of Sindh & Others

For the Petitioner : Mr. H. Rai Khemani, Advocate

Date of hearing : 04.12.2020

Date of announcement : 08.12.2020

JUDGMENT

Agha Faisal, J. The present petition seeks the following relief:

- a) To declare that the petitioners are the lawful owner of subject property i.e. measuring 7-20 Acres (out of 12-20 acres) situated at N.C. No.63, Sector No.6-B, Deh Songal, Scheme No.33, Karachi and they have purchased said property in the year 2008 & 2012 from the previous owner namely Saeedullah son of Abdul Rashid after issuing No Objection Certificate for sale as per law from the office of Mukhtiarkar, Gulzar-e-Hijri, Scheme 33, Karachi East, in the year 2008 & 2012 and further declare that the respondents No.2 to 5 & 14 to 16 being public officials have no any authority to cancel or revoke the title documents/Sale deed along with its mother entries of petitioners land in the record of rights which were earlier issued by them after completing all codal and legal formalities.
- b) To declare that the acts/actions of the Government respondent No.2 to 4, 7 & 8, 14 to 16/ being public officers inclusion with private respondent No.9 to 12 are illegal, un-constitutional, without jurisdiction, malafide, unlawful, having no value in the eyes of law, unjustified, misconceived, and unwarranted and having no legal/ lawful authority to cancel mother entries which are in the name of petitioners since 2008 & 2012 in record of Revenue/Registrar in respect of subject land.
- c) To declare that the acts of Government Respondent No.2 to 4, & 14 to 16/being Public Officers by cancelling the mother entries of petitioners land measuring 07-20 acres (out of 12-20 acres land) in favour of private respondents time by time on different occasions in past are unconstitutional, unlawful having no legal values in the eyes of law of land which are liable to be cancelled and further direct the government respondents to maintain all mother entries which are in the name of the petitioners since 2008 & 2012.
- d) To restrain the respondents, their successors, agents, employees, workmen attorneys, subordinates, or any person or persons claiming or acting on their behalf, restraining them from dispossessing the petitioners, allotting to any other person(s) and / or creating third party interest in the title/ownership of the subject land viz. measuring 7-20 acres (out of 12-20 acres) situated at N.C.No.63, Sector No.6-B, Deh Songal, Scheme No.33, Karachi East, in favour of any other person or persons till the final disposal of the Suit bearing No.2237 of 2017.
- e) To set-aside/ recall of order dated 05.03.2020 passed by this Honourable Court in the above said petitions C.P(s) No.D-7442/2018, 7443/2018, 7830/2018 and 362/2020 which was obtained by respondent No.8 to 12 through fraud, misrepresentation and concealments of facts and such misrepresentation of the respondent No.8 to 12 this Honourable Court has removed caution under Section 23 of NAO, 1999 vide order dated 05.03.2020 and further direct the NAB officials to put the caution again under section 23 of NAO, 1999 on the land of petitioners and further the original documents/title documents of petitioners (As per seizure memo dated 12.10.2018) may be returned to the petitioners and further the order No.221252/1W-1/MKT-B/G-Rufi/NAB)K/2020/1782 dated 09.04.2019 issued by the Director General NAB, Karachi may be suspended till disposal of the instant petition.
- f) To direct the Government respondent No.1, 5 & 6 to conduct transparent inquiry regarding illegal cancellation, transfer, regularization & change in record of rights of the petitioners land measuring 7-20 Acres (out of 12-20 Acres) and if any fraud/offence has been occurred or committed there by the Government Respondents inclusion with private respondent No.8 the departmental as well as Anti-Corruption/NAB proceeding may be initiated against them and innocent persons (petitioners) may be protected as guaranteed under the Constitution of Islamic Republic of Pakistan, 1973...

2. At the very outset, learned counsel was directed to satisfy this Court as to the maintainability hereof, *inter alia* as the petitioners are seeking declaration of title in respect of property; seeking cancellation of entries in the revenue record; seeking interference in matters of a criminal nature pending before the concerned authorities; and last but not least seeking to set aside orders passed by earlier Division Benches of this Court in other petitions, being C.P.Nos.D-7442/2018, 7443/2018, 7830/2018 and 362/2020.

3. Learned counsel for petitioners was unable to provide any cogent justification and instead insisted on arguing conflicting claims of a factual nature, which in any event cannot be entertained in the exercise of writ jurisdiction of this Court¹.

4. In view of the foregoing, this petition is found to be misconceived, hence the same, along with pending applications, is hereby dismissed *in limine*.

JUDGE

JUDGE

Khuhro/PA

¹ 2016 CLC 1; 2015 PLC 45; 2015 CLD 257; 2011 SCMR 1990; 2001 SCMR 574; PLD 2001 Supreme Court 415.