

Order Sheet
IN THE HIGH COURT OF SINDH KARACHI
Constitutional Petition No. S –882 of 2020

Syed Ahmer Hameed

Versus

Mst. Iqbal-un-Nisa Begum and 03 others

Date of hearing & order : 04.01.2021

Syed Saeed Hasan Zaidi, advocate for the petitioner.

Mr. Roomi Iqbal, advocate for respondent No.1.

Ms. Noshaba Haque Solangi, Assistant AG.

Ms. Shehzana Latif, APG along with Abdullah Memon, SP, Madadgar 15 and A. Khaliq Khan Zai, SDPO Ajmer Nagri.

ORDER

ADNAN-UL-KARIM MEMON, J. Through the captioned Constitutional petition, the petitioner has sought following relief(s) :

- i. An order declaring that for the redress of grievance of the Respondent No.1 is not the police functionaries where she is approaching but is the Civil Court which is the competent forum of adjudication of rival claims of the Respondent No.1 and the Petitioner and where Civil Suits are already pending between them in respect of the subject immovable properties.*
- ii. A direction to the Respondent No.1 to pursue her remedies in respect of her grievance in Civil Suit No.854/2018, and Civil Suit No.761/2019 already pending in Civil Courts at Karachi and which civil Courts are only the competent forums for adjudication of the controversy between the petitioner and the Respondent No.1, in respect of the subject properties / subject matter.*
- iii. A direction to Respondents No.2, 3 and 4, from entertaining the Complaint of the Respondent No.1, against the Petitioner in respect of the three Agreements regarding subject properties and not to take any action against the Petitioner on the complaint of the Respondent No.1, for they are not proper / competent forum for adjudication of civil dispute between the Petitioner and Respondent No.1.*

2. The petitioner and respondent No.1 are related inter-se and there is a civil dispute between the parties, which is under adjudication before the Court of IX-Senior Civil Judge at Karachi Central in Suit No.761/2019. Petitioner has alleged that private respondent is pressurizing the petitioner by moving various

applications against him before the police hierarchy, though the dispute between the parties is of civil nature.

3. Syed Saeed Hasan Zaidi, learned counsel for the petitioner has submitted that petitioner filed Civil Suit No.854/2018 against the private respondent in the Court of II-Senior Civil Judge, Karachi Central, for declaration and permanent injunction in respect of suit property viz. residential house bearing No.A-66, admeasuring about 170 square yards consisting of four shops and two small godowns, situated at Katchi Abadi Shah Nawaz Bhutto Colony, Sector No.1-A/4, North Karachi, Karachi Central and the same is pending between the parties, however, in the meanwhile, respondent No.1 also filed Civil Suit No.761/2019 in the Court of learned IX-Senior Civil Judge, Karachi Central against the petitioner, seeking the relief of declaration, possession, cancellation of documents, injunction, recovery of rent amount as well as amount of expenditure, mesne profit and damages in respect of her another property i.e. House No.F-310, situated in Bilalabad, Katchi Abadi, Block-S, North Nazimabad, Karachi. He further states that respondent No.1 filed a Constitutional Petition No. D-5409/2020 before this Court for holding a departmental inquiry against the petitioner for committing offenses of grabbing of her alleged properties and the said petition was disposed of vide order dated 25.09.2020 with direction to avail the remedy before the competent forum under the law and thereafter the private respondent moved various applications before the official respondents, hence the petitioner has approached this Court for the aforesaid relief.

4. Heard learned counsel for the parties and perused the material available on record.

5. *Prima facie*, the dispute between the parties is of civil nature and the same is under adjudication before the competent Court of law as discussed in the preceding paragraph. At this stage, learned counsel for the petitioner intervened and argued that the private respondent is causing harassment to him by moving various applications to the high-ups of police to take action against him though she has to avail the remedy before the learned civil Court as directed by the learned Division Bench of this Court in C.P. No. D-5409/2020 vide order dated 25.09.2020, therefore, the immediate indulgence of this Court is required in the matter.

6. I am not in agreement with the contention of learned counsel for the petitioner for the simple reason that the petitioner being a Head Constable in the Police Department is/was not required to indulge in such kind of disputes and take advantage of police uniform. Moreover, Petitioner's prayer to direct the police officials not to entertain the complaint of the private respondent, prima facie is not maintainable as no ostensible evidence pertaining to any harassment being caused by the police officials to the petitioner has been substantiated to justify interference by this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, as the matter of a civil dispute between the parties is being tried by the competent civil Court.

7. Abdullah Memon, Superintendent of Police Madadgar 15 present in Court states that he will look into the matter and conduct an impartial inquiry. He is directed to hold an inquiry into the matter and if the petitioner is found involved in usurping the private property, he may proceed against him in accordance with law. The parties are at liberty to avail their remedy before the competent forum under the law.

8. In view of the above, this petition stands disposed of in the above terms with no order as to costs.

J U D G E