

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI.

C.P.No.D-4782 of 2019.

Date	Order with signature of Judge
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1. For order on MA. 24528/2020.
2. For order on office objections
3. For hearing of MA. 20965/2019.
4. For hearing of MA 25015/2019.
5. For hearing of main case.

13.01.2021.

Ms. Afshan Ghizanfar, advocate for petitioner.

Mr. Shahbaz Sahotra, Special Prosecutor NAB a/w Mirza Aleem Baig I.O..

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ORDER

MUHAMMAD IQBAL KALHORO J: Petitioner claims to be owner of land admeasuring 17.08 acres situated in sector 27-A, Scheme 33 Karachi East and is aggrieved by a caution notice u/s 23 of National Accountability Ordinance, 1999 (NAO, 1999) by the Chairman, NAB in respect of Government land admeasuring 272.14 acres situated in Karachi East, which includes the piece of land claimed by the petitioner, in an inquiry against Ex-Secretaries Revenue, Stamps and Evacuee Properties, Govt. of Sindh namely Gul Hassan Channa and Abdul Razak Qureshi; and resultant refusal by respondents No.4 to 6, the revenue officials, to issue No Objection Certificate (NOC) in favour of the petitioner in respect of such land.

2. We have heard the parties. Learned defence counsel has submitted that impugned caution, available at page 33, is illegal, void abinitio and further that such freezing order has to remain in force only for a period not exceeding 15 days unless confirmed by the court as provided u/s 12 of NAO, 1999 but unfortunately the mischief thereof is still continuing. On the other hand, learned Special Prosecutor NAB and I.O. have submitted that regarding an scam about illegal allotment of the Govt. land admeasuring more than 700 acres under false and illegal evacuee claims and in connivance with the local builders, an inquiry is ongoing and at one point in time, the petitioner was issued a notice but he did not turn up; the caution on the Govt. land which includes the land claimed by the petitioner has been put u/s 23 of NAO, 1999 which does not envisage any time period for it to remain in operation.

3. No confidence inspiring document has been filed to show a clear title of the petitioner on any land claimed by him. However, the impugned notice shows his name at Sr. No.B and against him 37.00 acres of land has been shown. In reply to a query, I.O. has submitted that such land is in possession of KW&SB as water pipe lines are passing beneath it and not petitioner and that the claim of the petitioner is based on a will, the authenticity of which is not beyond a doubt. In reply, nothing has been offered by learned defence counsel except some denials. These would undoubtedly constitute disputed facts which cannot be scrutinized in the discretionary jurisdiction under Article 199 of the Constitution. Further, argument of learned defence counsel that after 15 days the impugned notice has lost its validity as has not been confirmed by the court is spurned being not maintainable inasmuch as the impugned caution has been put firstly not exclusively on the land claimed by the petitioner but on 272.14 acres stated to be the Govt. land and secondly u/s 23 of NAO, 1999 which does not posit any timeline for its effectiveness. This being the position, we don't find any merits in the instant petition and dismiss it accordingly alongwith listed applications.

JUDGE

JUDGE

A.K