

IN THE HIGH COURT OF SINDH AT KARACHI

Present:
Muhammad Junaid Ghaffar, J.
Agha Faisal, J.

CP D 915 of 2021 : Abdul Ghaffar Baloch vs.
Province of Sindh & Others

For the Petitioner : Mr. Faisal Ahmed Memon, Advocate

Date of hearing : 09.02.2021

Date of announcement : 09.02.2021

JUDGMENT

Agha Faisal, J. The present petition has been filed in respect of purported encroachment upon public land; situated in District Thatta, allegedly at the hands of private respondents. It has been pleaded that the said encroachment is on state land, hence, notice may be taken by this Court and further that the petitioners be provided protection against private persons, purportedly causing harassment thereto.

2. At the very onset the petitioners' counsel was required to address the Court with respect to the maintainability of the petition, especially with respect to the *locus standi* of the petitioner.

3. The petitioner's counsel admitted that the petitioner was not resident of the area under scrutiny, however, claimed that he was a resident in the vicinity. No response was also articulated to justify as to how he was aggrieved by any purported encroachment upon land admittedly not belonging thereto. In such regard it is apparent that the counsel was unable to demonstrate the *locus standi* of the petitioner to maintain the present petition.

The exercise of powers, per Article 199 of the Constitution, was required to be undertaken upon application of an aggrieved person¹. The petitioner's counsel failed to make any case before us to qualify the petitioner within the definition of an aggrieved person².

¹ Barring certain exceptions, i.e. writ of *quo warranto*, however, no case was made out to qualify the present petition within an exception recognized by law; 2019 SCMR 1952.

² *Raja Muhammad Nadeem vs. The State* reported as PLD 2020 Supreme Court 282; *SECP vs. East West Insurance Company* reported as 2019 SCMR 532.

4. The petition, and the documentation filed therewith, is devoid of any cogent substantiation to suggest that there is any encroachment upon state land or that there is any illegal activity taking place thereupon. The State is duly empowered to take remedial measures if its land is being misappropriated, including by recourse to the Sindh Public Property (Removal of Encroachment) Act 2010; however, and nothing has been placed on record to demonstrate if the State is aggrieved at all.

5. In so far as the prayer for protection is concerned it is settled law that such a grievance ought not to be agitated before the High Court without having exhausted recourse before the relevant fora³. There is no constituent of the pleadings to denote if the grievance was escalated before the concerned officials / fora prior to institution hereof and no such argument was articulated before us. Even otherwise seeking sanctions against private persons in writ jurisdiction cannot be appreciated.

6. In view of the reasoning and rationale herein contained, we are of the considered view that the petitioner's counsel has failed to set forth a case for the exercise of extra ordinary Constitutional jurisdiction by this Court, hence, this petition was dismissed vide short order announced in Court earlier today. These are the reasons for our short order.

JUDGE

JUDGE

³ Per *Ejaz Afzal Khan J* in *Younis Abbas & Others vs. Additional Sessions Judge, Chakwal & Others* reported as *PLD 2016 Supreme Court 581*; Per *Nadeem Akhtar J.* in *Abdul Hameed & Another vs. Province of Sindh & Others* reported as *PLD 2019 Sindh 168*.