

# IN THE HIGH COURT OF SINDH AT KARACHI

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

CP D 151 of 2021 : Munir Ahmed vs.  
Province of Sindh & Others

For the Petitioner : Mr. Irfan Aziz, Advocate

For the Respondents : Mr. Jawad Dero  
Additional Advocate General

Mr. Nisar Ahmed, Advocate

Date of hearing : 12.02.2021

Date of announcement : 12.02.2021

## JUDGMENT

**Agha Faisal, J.** The present petition has been filed in respect of purported encroachment upon Government land, allegedly at the hands of private respondents. It has been articulated that the said encroachment is on state land, hence, this Court must assume jurisdiction.

2. At the very onset the petitioner's 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 and that relief was primarily sought against private respondents in writ jurisdiction.

3. The petitioner's counsel admitted that the petitioner was not owner and / or occupant of the land under consideration, 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 person<sup>1</sup>. The petitioner's

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<sup>1</sup> 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.

counsel failed to make any case before us to qualify the petitioner within the definition of an aggrieved person<sup>2</sup>.

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. It is also noted that the primary grievance appears to be against private respondents and the official respondents seem to have been impleaded to seek the adjudication of the grievance before this court, in the exercise of its writ jurisdiction. A Division Bench of this High Court, in *Muhammad Saddiq case*<sup>3</sup>, had deprecated the invocation of the writ jurisdiction in private disputes and had held that such action, merely to overcome objections of the branch with respect to maintainability, cannot but be disapproved. A subsequent Division Bench has also maintained<sup>4</sup> that the masquerade of pleadings to invoke the Constitutional jurisdiction of this court is undesirable.

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 writ jurisdiction by this Court, hence, this petition, along with pending application/s, is hereby dismissed.

JUDGE

JUDGE

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

<sup>3</sup> *Muhammad Saddiq & Another vs. Ruqaya Khanum & Others* reported as PLD 2001 Karachi 60.

<sup>4</sup> *AKD Investment Management Limited & Others vs. JS Investments Limited & Others* reported as 2020 CLD 596.