

*Order Sheet*  
IN THE HIGH COURT OF SINDH CIRCUIT COURT  
AT HYDERABAD

C.P NoD-1233 of 2020

***Inayat Ali v. Province of Sindh & others.***

**03.02.2021**

Mr. Sahib Khan Panhwar advocate for petitioner.

**ARSHAD HUSSAIN KHAN, J:** - Through the instant Constitutional petition, filed under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the Petitioner has made the following prayers: -

*“The petitioner respectfully prays that this Honourable Court may be pleased:-*

- a. To declare the act of Respondent No.9 to 30 illegal, unlawful and against the law.*
- b. To direct the respondent No. 2 to 5 to restrain the flood water from the agricultural land near village Pahar Khan Jamali including some other villages in Union council Bhaledino Kaka, Taluka New Saeedabad.*
- c. To constitute a JIT/Committee for conducting fair and impartial inquiry consisting upon Deputy Commissioner and Assistant Commissioner Matiari XEN Irrigation Department Matiari and Police and submit its report within a period of three months and settle the dispute.*
- d. To direct the respondent No.3 to restore the tube well and flow of flood water.*
- e. To direct the respondent No. 7 & 8 to take the legal action against the private respondent No. 9 to 30, so also appoint their sub-ordinates to prevent any law blood shedding situation.*
- f. Any other relief(s) which this Honourable Court deems fit, just and proper in favour of the petitioner.”*

2. From perusal of the petition, *prima facie*, the dispute appears to exist between the petitioner’s landlord and the private respondents No. 09 to 30 in respect of some agricultural land and in this regard several FIRs have been lodged by them against each other. In this

regard para-16 of the memo of petition for the sake of ready reference is reproduced as under: -

“16. That the petitioner is a Hari and the above said land is also cultivated by him being a farmer, the private respondents have evil eye over the above said property, therefore they also occupied the land of land of landlord of petitioner for which petitioner being farmer alongwith his landlord, approached to the District Court against their land grabbing consequently, FIR was lodged against the said respondents and same were also arrested. After that when they came out from the bars, they again continued their ill and malpractice and again occupies over the said land.”

Besides above, the documents appended alongwith the petition also do not disclose the petitioner’s right over the land and the *locus standi* to file the present petition. The petitioner, through the instant petition has invoked the Constitutional jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, therefore, it has to establish that his legal or fundamental rights guaranteed under the Constitution have been violated. Similarly, the petitioner has to prove his *locus standi* to seek direction for initiation of action against the respondents under the denial of its legal rights, if any.

3. It is imperative for initiation of proceedings under Article 199 of the Constitution that the petitioner should have a *locus standi* to institute the proceedings or in other words the petitioner should be an aggrieved party from the action of the respondents. The Hon’ble Supreme Court of Pakistan in the case of Hafiz Hamadullah v. Saifullah Khan and others (PLD 2007 SC 52), *inter alia*, has held as follows: -

“With regard to the first objection it may be noted that under Article 199 (1) (a) of the Constitutional jurisdiction of the High Court can be invoked by an aggrieved person which denotes a person who has suffered a legal grievance, against whom a decision has been pronounced which has wrongfully deprived him or wrongfully refused him something which he was legally entitled to. It is also the requirement that the person invoking the constitutional jurisdiction under Article 199 of the Constitution has to establish that any of his legal or fundamental right guaranteed under the Constitution has been violated resulting in legal loss”

4. In view of the above judgment of Hon’ble Supreme Court of Pakistan and from the facts of the case, it is evident that the petitioner

is not aggrieved of any orders, acts or proceedings done or taken against him by the respondents. In fact, the petitioner through the instant petition seeks direction against the private respondents in respect of land of his landlord, which has nothing to do with the petitioner; therefore, the petitioner is not an aggrieved person to approach this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973.

5. This court when confronted learned counsel for the petitioner with regard to the maintainability of the present petition, *inter alia*, on above has failed to satisfy this court.

6. It may also be stated that the Article 199 of the Constitution casts an obligation on the High Court to act in the aid of law and protects the rights within the framework of Constitution and this extra ordinary jurisdiction of High Court may be invoked to encounter and collide with extraordinary situation and non-availability of any alternate remedy under the law where the illegality of the impugned action of an executive or other authority can be established without any elaborate enquiry into complicated or disputed facts. It is worth mentioning that it is mandatory and obligatory for a party invoking the Constitutional jurisdiction to establish a clear legal right, which should be beyond any doubt and controversy. Controverted questions of fact, adjudication on, which is possible only after obtaining all types of evidence in power and possession of parties can be determined only by the courts having plenary jurisdiction in matter. Reliance can be placed on the case of *Anjuman Fruit Arhtian and others vs. Deputy Commissioner, Faisalabad and others* (2011 SCMR 279).

7. In view of above facts and circumstances, instant petition being devoid of any force and merit is liable to be dismissed in *limine* along with pending applications. Above are the reasons for our short order dated 03.02.2021, whereby the instant petition was dismissed in *limine* along with pending applications.

JUDGE

JUDGE

**Dated 10.02.2021**  
\*Abdullah Channa/PS\*