

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD
C.P.No.D- 2530 of 2019

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on MA-11424/19
2. For orders on MA-11425/19
3. For orders on office objection
4. For orders on MA-11426/19
5. For hearing of main case.

13.11.2019.

Mr. Malik Yasir Aftab, advocate for petitioner.

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1. Urgency granted.
2. Granted.
3. Overruled.
4. Granted.
5. The petitioner by way of instant constitutional petition has prayed for the following relief;

“a. It be declared that the petitioner legally entitled for mutation of the said plot in his name as the other residents have also got transferred the plot of said area in their names according to the respective report.

b. To direct the respondents to get the valuation of portion of aforesaid plot and transfer the same in the name of petitioner after receiving the equivalent price of the said area/plot.

c. Any other relief(s) which this Honourable Court deems fit, just and proper in favour of the petitioner.”

It is the case of petitioner that he has constructed his house, over an area of 573 square feet somewhat fifty years back, which is situated at Allama Iqbal Colony, Mukhi Bagh, District Hyderabad, same is found to be entered in name of Gobind Ram son of Preetamdas (evacuee), as is reported to be by Mukhtiakar City Hyderabad. The civil litigation as per the petitioner in that respect

has already been decided in his favour by Additional District Judge, Hyderabad, yet the said house is not being transferred in his name by the respondents. It is in these circumstances, the petitioner has come before this Court by way of instant constitutional petition for the relief as is detailed above.

On being asked, how the instant constitutional petition is maintainable? It is stated by learned counsel for the petitioner that the petitioner is entitled to transfer of the disputed house in his favour on the basis of his undisputed and undisturbed possession over it for more than fifty years.

We have considered the above arguments and perused the record.

The subject house at present as per the very pleading is found entered in record of right in name of Gobind Ram son of Preetamdas and it is said to be evacuee property. To acquire the right over the evacuee property, a procedure/policy was set by the Government to be followed before the officials who were authorized to make disposal of such property. Such procedure/policy apparently has not been followed by the petitioner. Be that as it may, no property which belongs to someone else (evacuee) could be ordered to be transferred in favour of the petitioner, on the basis of possessory right by this Court in exercise of its constitutional jurisdiction.

In view of above, the instant constitutional petition being misconceived is dismissed in limini.

JUDGE

JUDGE