

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD  
C.P.No.D-2534 of 2019

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DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on MA-11463/19
2. For orders on office objection
3. For orders on MA-11464/19
4. For orders on MA-11465/19
5. For hearing of main case.

**19.11.2019.**

Mr. Haji Khan Hingorjo, advocate for petitioners.

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1. Urgency granted.
2. Overruled.
3. Exemption granted.

4&5 The petitioners by way of instant constitutional petition have prayed for the following relief:

- a) *Declare that the impugned letter dated 1605.2018 sent by the respondent No.4 through the respondent No.5 to the respondents No6 and 7 has been passed without hearing the petitioners, therefore, the same is in contravention of section 164(3) of Sindh Land Revenue Act, 1976 and is illegal, void ab-initio, without lawful authority, malafide and of no legal effect in respect of entries No.100, 104 and 105 of Record of Rights in favour of the petitioners and such action can only be taken after providing opportunity of hearing to the petitioners.*
- b) *Declare that the acts of the respondents as stated in the petition amounts to violation of the fundamental and constitutional rights of the petitioners as guaranteed vide Article 4, 8, 9, 23 and 24 of the Constitution, 1973.*
- c) *Issue writ of prohibition restraining the respondents and/or their officers, servants, employees, assigns, successors or any other person acting under their control or guidance from interfering in any manner with the proprietary rights of the petitioners and/or in any manner interfering in possession of above said land of the petitioners.*
- d) *Restrain the respondents No.5 to 7 from visiting the above said lands of the petitioners and not to dispossess*

*the petitioners from their land, till disposal of this petition.*

*e) Any other relief(s), which this Honourable Court deems fit, just and proper in favour of the petitioners.*

It is case of the petitioners that they have purchased the subject land from different vendors through registered sale deed and now are being threatened to be dispossessed therefrom by Mukhtiarkar and Assistant Commissioner Thano Bholi Khan District Jamshoro under the pretext that entries in their (petitioners) favour existing in record of right have been cancelled by Deputy Commissioner Jamshoro. It was in these circumstances, the petitioners have approached this Court by filing the instant constitutional petition for the relief prayed for.

It is contended by learned counsel for the petitioners that the entries in record of right existing in favour of the petitioners have been cancelled by Deputy Commissioner Jamshoro under impugned letter, without providing chance of hearing to them and now they are apprehending their dispossession from the subject land at the hands of the respondents. By contending so, he sought for issuance of notice against the respondents.

We have considered the above arguments and perused the record.

If, for the sake of arguments, it is believed that the petitioners acquired the ownership over the subject land through legal and lawful means and their such right is denied by Deputy Commissioner Jamshoro by cancelling the entries in record of right existing in their favour then such cancellation of the entries in record of right amounts to denial of the right of the petitioners over the subject land, which could be agitated / impugned by having a recourse before the Revenue authority or under Section 42 of the Specific Reliefs Act before the Civil Court having jurisdiction, if not before Revenue hierarchy. Additionally, the petitioners could also ask for protection of their possession over the subject land (if they have) by

seeking a restraining order from such Court. The controversy, which is advanced by the petitioners apparently being factual in nature could not be resolved by this Court in exercise of its constitutional jurisdiction.

Consequent upon above discussion, the instant constitutional petition is dismissed in limini.

JUDGE

JUDGE

Ahmed/Pa,