

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

C.P.No.D- 20 of 2018

Before;

Mr. Justice Irshad Ali Shah

Mr. Justice Amjad Ali Sahito

Petitioners: Through Mr. Masood Illahi Sahito,
advocate

Official respondents: Through Mr. Muhammad Ismail
Bhutto, Assistant Advocate General
Sindh

Date of hearing: 18.12.2019

Date of decision: 18.12.2019

ORDER

The petitioners by way of instant petition have prayed
for the following reliefs:

“A. That this Honourable Court may be pleased to direct to the respondent No.03 to not to dispossess the petitioners from their village for rehabilitation of other people / encroachers. It is against the natural justice to rehabilitate the encroachers on the cost of already long settled poor, deprived and low income people of Pakistan and further direct the respondent No.02 to 04 to allot the land to the villagers as per prescribed law after fulfilling all requirements.

B. This Honourable Court may be pleased to grant any other relief which the Honourable Court deems fit and proper in view of the above facts for protection of petitioner and in the interest of justice.”

2. It is the case of the petitioners that an area of 05-02 ghuna in Deh Gujjo Taluka City Hyderabad was allotted to one Bux Ali son of Haji Malook, it was entered into relevant record by Revenue Officials on 07.09.1991, such allottee then sold said land to them thereupon they have constructed their houses, which is called

as "Bhatti" village and now they have apprehension to be dispossessed therefrom by Deputy Commissioner Hyderabad under the pretext of survey. It was in these circumstances, they have filed the instant petition for the relief as is detailed above.

3. It is submitted by Deputy Commissioner Hyderabad in his comments that the land in possession of the petitioners was leased to Bux Ali for ten years from Kharif 1991-92 to Rabi 2001, such lease has not been renewed and same has now reverted to Government "Naqaboli Pool". By submitting so, he sought for dismissal of the instant petition.

4. It is contended by learned counsel for the petitioners that petitioners being lawful occupants of their houses are entitled to its allotment as per the prescribed law.

5. Learned AAG has sought for dismissal of the instant petition by contending that it is incompetent and status of the petitioners over the subject land is that of encroachers/trespasser.

6. We have considered the above arguments and perused the record.

7. As has come on record, the petitioners came into possession of the land through Bux Ali, who was the lessee of the subject land for 10 years, such lease admittedly has not been renewed and land as per the comments filed by Deputy Commissioner Hyderabad has reverted to the Government Pool, which has made the possession of the petitioners over the subject

land to be unauthorized and illegal. No person(s) could be permitted to retain unauthorized and illegal possession over the public property under the garb that they are entitled to its allotment. Additionally, the issue of allotment on the basis of occupancy and/or dispossession involving factual controversy even otherwise could not be resolved by this Court, in exercise of its constitutional jurisdiction.

8. The Instant constitutional petition being misconceived is dismissed accordingly.

JUDGE

JUDGE