

ORDER SHEET
HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD

R.A No.122 of 2001

(Haji Achar through legal heirs versus Qaiser Khan through legal heirs)

DATE	ORDER WITH SIGNATURE OF JUDGE
Applicant(s)	: Through Mr. Parkash Kumar advocate
Respondent(s)	: Through Mrs. Razia Ali Zaman Khan advocate
Date of hearing	: 15.11.2021
Date of decision	: 15.11.2021

ORDER

ADNAN-UL-KARIM MEMON, J: Applicants have impugned the judgment and decree dated 04.12.2001 & 06.12.2001 respectively passed by learned IIIrd Additional District Judge Nawabshah in Civil Appeal No.26 of 2001 (*Re: Qaiser Khan versus Haji Achar*), whereby, the learned Judge set aside the judgment and decree dated 17.05.2001 & 19.05.2001 respectively, passed by learned IInd Senior Civil Judge Nawabshah in F.C Suit No.70 of 1991 (*Re: Haji Achar versus Qaiser Khan*).

2. At the very outset I asked the learned counsel for the applicant as to how the applicant is claiming ownership of Asaish land arising out of remaining area of UA No.318, which is reserved for Asaish. Initially, the learned counsel for the applicants contended that deceased father of applicants had filed F.C Suit bearing No.70 of 1991 claiming therein that he is owner of Survey No.370, 371 & 372 in Deh 23 Satpuri Taluka Sakrand, where adjoining to his land there is a Asaish land having Survey No.318 on which deceased father of private respondents, while claiming ownership, was trying to also occupy above land of applicants. He further contends that suit filed by the deceased father of applicants was decreed as prayed; however, in appeal, filed by deceased father of respondents, the said judgment and decree was set aside without recording evidence on re-casted issues by the learned appellate Court. The aforesaid instance has been refuted by the learned counsel, representing the respondents while claiming to be the lawful owner of entire Survey No.318 being his inherited property. This assertion has been brushed aside by the learned counsel for the applicant.

3. Finally when confronted the aforesaid legal position of the case both the parties agreed for disposal of instant revision application in the terms that the subject remaining piece of land in UA No.318 can be used by the villagers for Asaish purpose only, without creating any hindrance for each other. However, it is made clear that the subject strip of land is only meant for Asaish purpose,

which can only be used for Asaish purpose and the same cannot be converted for any other purposes. If any person attempted to occupy the said strip land, the law will take its own course and action will be taken under Sindh Public Property (Removal of Encroachment) Act, 2010. Mr. Allah Bachayo Soomro, learned Additional A.G, present in Court in some other cases, has candidly accepted the proposal put forward by both the parties and has raised no objection, if the subject remaining piece of land in UA No.318 is used for Asaish purpose by the villagers, as defined under Sindh Goathabad (Housing Scheme) Ordinance, 1987.

4. This revision application stands disposed of in the above terms.

JUDGE

Sajjad Ali Jessar