

**HIGH COURT OF SINDH, CIRCUIT COURT AT
HYDERABAD**

C.P No.D-1160 of 2012

[Ghous Bux versus Province of Sindh & Others]

DATE	ORDER WITH SIGNATURE OF JUDGE
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Present:-

Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Adnan Iqbal Chaudhry

Petitioner : None present

Respondents No.6&7: Through Mr. M. Arshad Pathan advocate

Official respondents : Through Mr. Allah Bachayo Soomro, A.A.G

Date of hearing : 10.11.2021

Date of Decision : 10.11.2021

J U D G M E N T

ADNAN-UL-KARIM MEMON, J:- Through captioned petition, petitioner has alleged encroachment on Government bhadda land by private respondents No.6 & 7 and has made following prayers:

- A. *Direct the respondents No.2 to 4 to implement the directives of respondent No.1 in letter and spirit for removal of encroachment upon the government bhadda land.*
- B. *Direct the respondents No.2 to 4 to issue the directions to respondent No.5 and his subordinates to carry out measurement/demarcation of land in question in presence of both the parties with immediate effect.*
- C. *Direct the respondent No.2 to issue directions to respondent No.5 to carry out the demarcation work in his presence and if he found that Government land has been illegally occupied by the private respondents, then and there the same may be vacated.*
- D. *Direct the respondent No.3 to issue the directions to his subordinate police officials not to cause any illegal and unjustified harassment to the petitioner and his family members at the behest of the respondent No.6 and 7.*
- E. *Costs of the petition may be saddled upon the respondents.*
- F. *Any other relief(s) which this Honourable Court deems fit, just and proper in favour of the petitioner.”*

(Underlined by us)

2. Learned counsel for private respondents has denied the allegations, leveled in the petition.

3. Today no one is present for petitioner; however, in order to appreciate the prayers clause A to C, we have gone through the material available on record. It appears that '*demarcation*', as prayed for by the petitioner, has already been conducted by Director Settlements Survey and Land Record Hyderabad, vide report dated 27.05.2014. Insofar as alleged encroachment by respondents No.6 & 7 is concerned, we have gone through the report dated 08.12.2012 submitted by Deputy Registrar/Commissioner appointed by this Court, which reflects that though the abandoned area of subject water course is government property, relating to Irrigation Department; however, same has allegedly been encroached upon by respondent No.6 being surface (Mohaga) of his land. However, report of Deputy Registrar/Commissioner has been disputed by learned counsel for respondents No.6 & 7 through his objections. Accordingly, same has become factual controversy and cannot be looked into by this Court, while exercising constitutional jurisdiction under Article 199 of the Constitution; however, the Irrigation authorities/respondents are at liberty to initiate proper proceedings before the competent forum/ learned Anti-Encroachment Tribunal concerned, if at all, they found encroachment on part of respondent No.6 or anyone else on the subject water course.

4. In view of above, instant petition stands dismissed accordingly, with no order as to cost(s).

JUDGE

JUDGE

Sajjad Ali Jessar