

Order Sheet
IN THE HIGH COURT OF SINDH KARACHI
C.P.No.D-3313 of 2019

Date	Order with Signature of Judge
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1. For hearing of CMA 36080/2019
2. For hearing of main case.

24.01.2022

Petitioner in person alongwith Mr. Faizan Mansoor Advocate.
Mr. Muhammad Yaseen Khan Azad advocate for intervenor.
Mr. Shahbaz Sahotra, Special Prosecutor NAB

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MUHAMMAD IQBAL KALHORO J: Petitioner claims to be resident of a plot No.FT/2/10 Frere Town, M.C. Neil Road old Race Course, Karachi, which he asserts belongs to his forefathers evident from a Rahan Card having same address. When one Sahibzada Muhammad Matin Mirza came to reside in the said plot, litigation between parties started, culminated in Honourable Supreme Court by a judgment reported as PLD 1980 SC 64, remanding the case, among others, to the relevant authorities to deal with the excess area of 1607 Sq. yds.

2. Petitioner, after seeking permission to argue himself in presence of his advocate, has stated that Sahibzada Muhammad Matin Mirza was entitled to only an area of 2620 Sq. Yds, and did not make any payment of excess area of 1607 Sq. Yds. In compliance of judgment of Honourable Supreme Court, Board of Revenue Sindh was bound to make entry in his favour in respect of the said plot but *it* failed to do so. Subsequently legal heirs of Sahibzada Muhammad Matin Mirza entered into transactions illegally with other persons selling out the property in violation of the judgment of Honourable Supreme Court are void, *ab initio*. An enquiry was conducted by Board of Revenue Sindh on his application and concluded that documents produced in respect of 1607 Sq. Yds, were fraudulent and illegal.

3. Thereafter petitioner filed an application in 2015 before NAB for an enquiry but without any consequence. Again he repeated the application in 2018 but this time also no result came out. In this backdrop, the petitioner has sought directions to NAB to show what steps have been taken on his application and further to initiate proceedings against delinquent officials involved in malpractice in respect of subject property.

4. We have considered his submissions. Petitioner has not been able to satisfy about maintainability of this petition as the controversy between the parties is factual in nature and can be decided only by a proper forum with the capacity to record evidence of the respective parties.

5. In any case, Learned Special Prosecutor NAB by referring to the comments has submitted that enquiry is being conducted by NAB and during which the matter was referred to Board of Revenue which submitted its recommendation on 13.09.2017 but again the matter has been referred to Board of Revenue for further update in the matter.

6. Learned counsel, who has filed CMA 36080/2019 to join the proceedings, has submitted that on the subject property there are civil suits pending before relevant civil courts between the parties.

7. As NAB is already seized with the matter actively, and has been conducting enquiry, no further order or a justification is required to keep this petition alive. More so, controversy between the parties involves factual over tones is beyond the constitutional jurisdiction of this Court to determine. Accordingly, this petition is disposed of. The petitioner however, would be at liberty to avail a proper remedy in the face of any adversity arising out of enquiry by NAB.

The petition alongwith listed application is disposed of in the above terms.

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