

**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**

**C. P. No. D – 79 of 2010**

**Shahid Ikram Malik and others v. Arz Muhammad and others**

**Before:**

Mr. Justice Muhammad Junaid Ghaffar  
Mr. Justice Zulfiqar Ali Sangi

Date of hearing: **17-02-2022**

Date of decision: **17-02-2022**

Mr. Nishad Ali Shaikh, Associate of Mr. A. M. Mobeen Khan,  
Advocate for the Petitioners.  
Mr. Alam Sher Bozdar, Advocate for Respondent No.8.  
Mr. Asfandyar Kharal, Assistant Advocate General Sindh.

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**ORDER**

**Muhammad Junaid Ghaffar, J.** – Through this Petition, the Petitioners have impugned order dated 18-11-2009 passed by the Member Judicial-II, Board of Revenue Sindh, Hyderabad in Cases No.129, 130 and 135 of 2009. The said order reads as under:

“ There are three connected revision petitions filed in this court on 02-08-2009 against the order dated 15-01-2007 passed by the learned Executive District Officer (Revenue) Noushahro Feroze, whereby he has cancelled the T.O Forms No.130, 131 & 132 dated 18-08-1999 of Deh Bahlani Taluka Mehrabpur, District Noushahro Feroze.

2. Heard the counsels for the parties and perused the case paper including impugned order.

3. I have considered the arguments put forth by the advocates for the petitioners and respondents and gone through the case papers. The counsel for the petitioners mainly contended that the order passed by the Executive District Officer (Revenue) Noushahro Feroze is exparte order as no opportunity of being heard was provided to both parties. The counsel therefore prayed that the order of the learned Executive District Officer (Revenue) Noushahro Feroze may be set aside being illegal and bad in law having been passed in violation of the principles of natural justice and present petitions may be upheld after hearing the parties. It reveals from the order that nobody has been heard and there is nothing in the impugned order to suggest that the notice was issued and served on the parties prior to passing the impugned order. It is clear that the order of Executive District Officer (Revenue) Noushahro Feroze canceling the grant being exparte and without

*service. It is settled law that no one should be condemned unheard. Therefore the impugned order is illegal and nullity in the eyes of law.*

4. *According to section 161 of Sindh Land Revenue Act 1967 the appellate authority has to decide the matter after providing a chance of hearing to the parties and the subordinate Revenue Officers shall be either confirmed or reversed.*

5. *For the forgoing reasons I am convinced that neither opportunity of being heard was provided nor verification of record was made by the learned Executive District Officer (Revenue) Noushahro Feroze before passing the impugned order dated 15-01-2007 and the order passed by him is against the principle of natural justice. I therefore set aside the order of Executive District Officer (Revenue) Noushauro Feroze and remand the cases back to him to decide a fresh in accordance with law after providing an opportunity to the parties of being heard before passing any final order.*

6. *Accordingly three connected revision petitions are disposed of in single order.”*

2. Perusal of the aforesaid order reflects that it has set aside an order passed by the Executive District Officer (Revenue), as the said order was an *ex parte* order and was passed without affording opportunity of hearing. After setting aside such order, the matter has been remanded; hence, there appears to be no cause of action on the part of the Petitioners to impugn such order.

3. In view of such position, the Petition is misconceived and is hereby **dismissed** with pending application(s).

J U D G E

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Abdul Basit