

IN THE HIGH COURT OF SINDH,
BENCH AT SUKKUR

Const. Petition No. D – 1871 of 2011

(Lal Bux and 05 others V/s Province of Sindh & others)

Hearing of Case(Priority)

- 1.For orders on CMA 5927/2021
- 2.For hearing of CMA 10160/2011.
- 3.For hearing of Main Case.

Before:

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

Date of Hearing: **19-04-2022**
Date of Order: **19-04-2022**

Mr. Abdul Wahab G. Shaikh, Advocate for the Petitioners.
Mr. Sanwan Khan Jagirani, Legal Advisor for Respondents-SIDA.
Mr. Shahriyar I.Awan, Assistant A.G.

ORDER

Muhammad Junaid Ghaffar, J. – Through this Petition, the Petitioners have sought the following relief(s):

- i. To direct the respondents No:2 to 6 to provide the water to the petitioners for irrigating the land.
- ii. To direct the respondents No: 5 and 6, to open the water pipe from RD-158, Ghotki Feeder, till for proper arrangement of water course.
- iii. To direct the respondents to make proper arrangement for providing the water for irrigating the land.
- iv. To grant injunction, while directing the respondents No.2 to 6 not to close the water pipe”.

2. Though the matter is pending since 2011, and after issuance of notice various directions have also been issued; however, at the very outset today we have confronted the Petitioners’ Counsel as to how prayer clauses (ii) and (iv) can be granted, or even asked for, as apparently they appear to be unlawful. To this, he has not been able to satisfactorily respond except that in that case he will not press the same. Such request has been declined by us at the very outset. A Petitioner coming to the

Court seeking a discretionary relief under Article 199 of the Constitution must always come with clean hands and cannot take advantage by filing a Petition and then continue with unlawful acts. He has to be fair and act so as well.

3. From perusal of the comments it appears that the Petitioners are involved in installing pipes for irrigation purpose, for which they have never been granted any permission from Ghotki Feeder, and notwithstanding the fact that proper water may not be available to the Petitioners, they cannot in any manner on their own seek water from another Feeder by installing pipes. Such act on the face of it is illegal, and not only this they have dared to come to the Court and seek a restraining order to the effect even.

4. It has been further stated in the comments that such illegal pipes along Ghotki Feeder were earlier removed through the help of law enforcement agencies, whereas, the Petitioners instead of taking water from sanctioned source i.e. Rounti Minor, are making attempts to seek water from Ghotki Feeder Canal for which they have no lawful permission.

5. In view of such position since the conduct of the Petitioners does not appear to be fair; whereas, they have installed pipes unlawfully without permission, we are not inclined to exercise any discretion in favor of the Petitioners and entertain this Petition. Hence, the same is hereby **dismissed** with pending applications.

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