

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD

C.P. No.D-616 of 2017

DATE	ORDER WITH SIGNATURE OF JUDGE
-------------	--------------------------------------

Before:

Mr. Justice Muhammad Shafi Siddiqui
Mr. Justice Irshad Ali Shah.

26.04.2022

Mr. Muhammad Arshad S. Pathan, Advocate for the petitioners.
Mr. Rafique Ahmed Dahri, Assistant Advocate General, Sindh.
None for the private respondents.

==

The petitioners by way of instant petitions have impugned order dated 22.11.2016 passed by Commissioner Mirpurkhas Division whereby he cancelled entries No.19 and 20 dated 30.10.1994 of VF-VII-B of Deh Umerkot Thar, Taluka and District Umerkot by way of Suo Moto proceedings.

It is contended by learned counsel for the petitioners that impugned order has been passed by the Commissioner Mirpurkhas without providing chance of hearing to the petitioners; therefore, same being illegal is liable to be set-aside.

Learned Assistant Advocate General, Sindh has sought for dismissal of the instant constitutional petition by contending that it is incompetent for the reason that the remedy of appeal before Board of Revenue has not been exhausted by the petitioners.

Heard arguments and perused the record.

Obviously the petitioners were having a remedy to have been exhausted by them before Board of Revenue Sindh by preferring an

appeal or by filing a declaratory Suit in terms of section 42 of the Specific Relief Act before Civil Court having jurisdiction against the impugned order. None of such remedy, they have exhausted for no obvious reason, therefore, they could to be permitted to invoke constitutional jurisdiction of this Court directly.

In case of *Commissioner Inland Revenue and others Vs. Jahangir Khan Tareen and others [2022 SCMR 92]*, it has been held by Hon'ble Apex Court that:

Tendency to bypass the remedy provided under the relevant statute is by and large deprecated and disapproved in many dictums laid down in local and foreign judgments in which Courts have considered the interference as an act of denouncing and fettering the rights conferred on the statutory functionaries especially constituted for the purpose to initially decide the matter."

Consequent upon above discussion, the instant constitutional petition being misconceived is dismissed accordingly with no order as to costs.

J U D G E

J U D G E

Muhammad Danish*