

ORDER SHEET
IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
C.P.No. D- 401 of 2019

Date of hearing	Order with signature of Judge.
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Hearing of Case (Priority)

- 1.For orders on office objection
- 2.For hearing of CMA 1485/19
- 3.For hearing of main case.

29-03-2022

Mr. Khuda Bux Chohan, Advocate for the Respondents No.2&4.
Mr. Ali Raza Baloch, Assistant Advocate General.

Mr. Gul Feroze Kalwar Advocate has filed Vakalatnama on behalf of the Petitioners, which is taken on record.

Through this Petition, the Petitioners have impugned Notices issued by the Sukkur Municipal Corporation (“SMC”) dated 07.03.2019, whereby, it has been alleged that the Petitioners have encroached the property of the SMC.

Notices were ordered and comments have been filed by the Respondents including Auqaf Department.

Petitioners’ case is that they are tenants of the Auqaf Department and are not encroachers; whereas, the Auqaf Department relies upon the Notification dated 02.09.1960, whereby the property was given to the Auqaf Department under the West Pakistan Waqf Properties Ordinance, 1959. They also support the claim of the petitioners that they are their tenants.

While confronted, learned Counsel appearing for SMC could not controvert this factual assertion; except the shops owned by SMC have been rented out illegally by the Aukaf Department. We are afraid, if that is the case then there was no occasion for SMC to issue impugned notices alleging encroachment; rather, they were required to seek appropriate remedy from a competent Court of law.

In view of such position it appears that the impugned notices have been issued without lawful authority and jurisdiction; hence, the same are hereby set-aside. The petition stands allowed in these terms, with the observation that if the Sukkur Municipal Corporation intends to proceed any further, they shall act strictly in accordance with the law and may seek remedy from the competent Court of law having jurisdiction against the petitioners and the Auqaf Department as the case may be.

JUDGE

JUDGE

Ahmad