

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P No. D- 2977 of 2023

Date Order with signature of Judge

Fresh Case.

1. For order on Misc. No. 14208/2023 (U/A)
 2. For order on office objection No. 2, 7, 27 & 28.
 3. For order on Misc. No. 14209/2023 (Exemption/App)
 4. For hearing of Main case.
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13.06.2023.

Mr. Aziz-ur-Rehman, Advocate for Petitioner.

1. Granted.

2, 3 & 4. Through this petition, the Petitioner has sought the following relief(s):-

- a. To direct the respondent No. 5 to 7 not to harass the petitioner in any manner whatsoever may be and further not to interfere with the peaceful and lawful possession of “**Subject Property**” of petitioner in any manner whatsoever, and respondents may kindly be directed to act strictly in accordance with law.
- b. To direct the Respondents No. 1 to 4 to provide the legal protection to the Petitioner from any harmful act of the private respondents No. 5 to 7 and not to harass, pursue, the Petitioner and his other family members in any manner whatsoever, and further private respondents may kindly be directed to act strictly in accordance with law.
- c. Any other relief(s) which the Court deems fit and property under the circumstances of the case.

Prior to filing of this Petition, the petitioner approached the Ex-Officio Justice of Peace / Sessions Judge, Thatta, under Section 22-A(6)(i) Cr.P.C and such application stands dismissed vide Order dated 31.03.2023. The relevant finding reads as under:-

“Admittedly, parties are on dispute, an a F.C Suit No.92/2020 filed by the applicant was pending adjudication before the Court of learned Senior Civil Judge, Thatta; therefore, apparently it seems that applicant wants to drag the proposed accused in a criminal battle, rather to contest the suit for redressal of his grievance. Besides, the DSP complaint in inquiry report did not support the version of the applicant; therefore, I do not feel it necessary to issue directions to the SHO concerned to lodge FIR. It has been observed that it is custom of the society that such like applications are being filed in order to put pressure upon the rival parties,

therefore, I am of the opinion that in each case directions could not be accorded to the SHO concerned for registration of criminal case, as the honor and liberty of person against whom case is to be registered remain on stake. In this respect I am also fortified by the case of Habibullah versus Political Assistant Dera Ghazi Khan, reported in 2005 SCMR-951, in which it has been held by the Honourable Apex Court that for prayer of FIR, it is not obligatory to issue writ in each case irrespective facts and circumstances, which could call for exercise of Judicial restraint and turning down such request in view of the conduct of petitioner; besides considering that adequate remedy in the form of private complaint was available to him. I am also fortified by the case of Irfan-ul-Haq and 02 others versus Iftikhar Hussain and 04 others, reported in 2006 P.Cr.L.J-1775, in which duties and powers of Justice of Peace are determined by the Honourable court by holding that Ex-Officio Justice of Peace could refuse registration of case only if Police report discloses no justifiable reason for registration of case and further that no absolute embargo existed against the power of Ex-Officio Justice of Peace that in all circumstances, in the event of a negative police report, he could order for registration of a case. Accordingly, application being devoid of merits stands dismissed.”

On perusal of the aforesaid order, it appears that parties are in dispute in respect of some property and F.C. Suit No. 92 of 2020 is also pending before Senior Civil Judge, Thatta. It is a matter of record that notice was ordered by the Justice of Peace to DSP Complaint Cell who informed that the land in question was purchased by someone, whereas, the Petitioner was not in possession of the same. It was also informed that there is also a dispute in respect of a water course between the parties. It further appears that the primary prayer is in respect of protection to its possession. Since the dispute between the parties is of civil nature, the alleged harassment appears to be an attempt to create influence on the opposite party by dragging them in criminal cases; therefore, no case for indulgence is made out. The order passed by the Ex-Officio Justice of Peace does not warrant any interference.

In view of the above facts and circumstances, this petition appears to be misconceived and is dismissed in *limine* with pending applications.

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