

ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR.

C.P.No. D – 125 of 2022.

- 1.For orders on o/obj.at flag.A.
- 2.For orders on CMA 6972/2023.
- 3.For orders on CMA 6973/2023.
- 4.For Hearing of main case.

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14.11.2023.

Mr.Abdul Raheem Mahar Advocate for petitioner.
M/s.Nisar Ahmed Bhanbhro & Sheeraz Fazal
Advocates for respondents No.6 to 9.
Mr.Ghulam Abbas Kubar AAG alongwith Madam
Sheeren Secretary Education & Ayaz Hussain DEO
(Primary) Khairpur.

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The petitioner has invoked the jurisdiction of this Court under Article 199 of the Constitution alleging that a functional Government Primary School located in the village Noohpoto, Taluka Thari Mirwah, District Khairpur has suddenly been taken over by so-called “Gundas elements”, which it thus being prayed that this Court be pleased to direct to official respondents to take action against the illegal occupiers so as to vacate the premises without further delay.

A statement had been filed on an earlier date on behalf of the respondent No.5, giving rise to an impression that the part of the School premises has been illegally occupied by the respondents No.6 to 9 with it being undertaken that the same would be cleared of encroachment. Thereafter, as it appeared that there was some reluctance to follow up on the matter, we deemed it necessary to issue notice to the Secretary Education to appear personally.

Today, pursuant to the notice issued, the Secretary Education is in attendance and files a statement, which is taken on record. She submits that there is no case of encroachment and the Government School is functioning properly in its own premises situated at some distance from the location where it previously existed on land voluntarily made available at the title by the predecessor of the some of the private respondents. The statement filed under the signature of the Secretary is reproduced herein-below:-

“STATEMENT.

In continuation of statement dated 24.10.2023 and 7-11-2023 in the instant C.P filed by the District Education Officer (Primary) Khairpur, it submitted before this Hon’ble Court that:

a). The under signed sought report from the District Education Officer (Primary) Khairpur who after visiting the GBPS Sofai Noohpoto, Taluka Mirwah has reported that he examined the record of school, interviewed the villagers and found that the school had been established in 1953. The area of School shown 20 Ghuntas (about 2400 sq yards) in photo copy of Alf record (Revenue Record) provided by PST of the school at (Annexure A&B respectively).

b). In the year of 2000, Rajabuddin Noohpoto, father of the 4respondents filed Civil Suit No.33/2000 in the Court of Senior Civil Judge, Mirwah, who passed the judgment dated 30.10.2000, in the said suit, the conclusion para is reproduced as under:-

“In view of above discussions and reasons as well as findings in issue No.3 the suit of the plaintiff is decreed to the extent of permanent injunction. The defendants are restrained from interfering with the rights, title and possession of plaintiff over the plot except plot measuring 650 sq feet without any due course of law.”

c). Previously the school was running in the old premises in different places viz in Otaq, Chappra etc ubt in the year of 2013, the government sanctioned two rooms school building which is constructed at about a distance of 3-4 hundreded meters in private land, donated by some one, because the school building etc was sanctioned over an area of about 1500 sq feet, the same could not be accommodated in 650 feet.

d). The respondents and their elder occupied the 20 ghuntas of the school's land more than two decads ago and with passage of time they had constructed their house, Otaq, Cattle pen and finally constructed compound wall around the whole plot which is under their possession. Now surrendent 650 feet for the school as earlier ordered by the Civil Court.

e). The construction of the respondents over the land in question is: house is at about 5 ghuntas, Otaq at 5 ghuntas and Cattle Pen and boundary over 10 ghuntas.

f). Now a days, more than hundreded students are studying in the said two roomed Government Primary School building, and the school functioning soomthly. As such there is no issue of education with the students.

In view of the above submitted facts, circumstances and documentary evidence, this Honourable Court is prayed to decide in the instant C.P on merits in the interest of justice.”

In view of such statement, the petition stands disposed of accordingly.

JUDGE

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