

IN THE HIGH COURT OF SINDH AT HYDERABAD

M.A S-101 of 2021 : Muhammad Yaqoob Vs. Deputy
Commissioner/ Director Anti Encroachment &
Others

M.A S-102 of 2021 : Mst. Zubaida & Another Vs. Muhammad
Yaqoob & Others

For the appellant : Mr. Naeemuddin Sahito, Advocate in MA
S-101 of 2021

: Mr. Javed Ali Buriro, Advocate in MA
S-102 of 2021

Date/s of hearing : 13.12.2023.

Date of announcement : 13.12.2023.

ORDER

Agha Faisal, J. The appellants have assailed the order dated 09.11.2021 rendered in Suit 24 of 2021 by the Anti Encroachment Tribunal Hyderabad.

At the very outset, learned counsel are confronted with the office objections pertaining to maintainability hereof; since *prima facie* section 27 of the Act only contemplates an appeal against an order passed by the Special Court¹; and not by the Tribunal².

Learned counsel submit that section 27 ought to be read to include the provision of appeal against orders of the tribunal as well and that in the absence of any such statutory provision, the same must be presumed. Respectfully, this Court finds itself unable to sustain the said submission.

Appellants' counsel have been unable to demonstrate any law providing for an appeal against the order impugned and the said circumstances squarely attract the observations of the Supreme Court, in the case of *Gul Taiz Khan Marwat*³, reiterating settled law that an appeal is a creation of statute and in the absence of any such remedy being provided none can be presumed.

Therefore, in *mutatis mutandis* application of the binding edict of the Supreme Court in *Gul Taiz Khan Marwat*, these appeals are found to be misconceived, hence, dismissed along with pending applications. The office is directed to place a copy hereof in the connected appeal.

Judge

A.Rasheed/stenographer

¹ 25. For the purpose of providing for speedy trial of offences committed under this Act, Government may establish, by notification, a Special Court in each district and a special court for each group of six towns of the City District.

² 12. Government may by notification in the official gazette, establish a Tribunal for each district consisting of a retired District and Sessions Judge or any Advocate of ten years standing.

³ Per *Ijaz ul Ahsan J* in *Gul Taiz Khan Marwat vs. Registrar Peshawar High Court* reported as *PLD 2021 Supreme Court 391*.