

Order Sheet
IN THE HIGH COURT OF SINDH AT KARACHI
C. P. No. D – 6793 of 2021

Date	Order with Signature of Judge
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1. For hearing of CMA No. 4605 of 2023 (Under Order 1 Rule 10)
2. For hearing of CMA No. 4607 of 2023 (Stay) :
3. For hearing of main case :

18.12.2023

Mr. Khurram Advocate for the Petitioner.
Mr. Nasrullah Korai, Advocate for the Intervenors.
Abdur Rasheed, Legal Inspector for Pakistan Rangers.
Mr. Pervaiz Shmed Mastoi, Advocate for the Land Utilisation Department.
Mr. Jawwad Dero, Additional Advocate General Sindh.

MOHAMMAD ABDUR RAHMAN J. CMA No. 4605 of 2023 is an application that has been maintained under Order I Rule 10 of the Code of Civil Procedure, 1908, by the intervenors claiming to be the owners of plots of land located in a Goth known as “Abdullah Shah Ghazi Goth” and which plots owned by them overlap with the property that is owned by the Petitioner.

2. From the documents appended to CMA No.4605 of 2023 it is apparent that “Abdullah Shah Ghazi Goth” was created on the basis of a letter dated 6 April 2012 issued by the Land Utilization Department, Province of Sindh and which letter was subsequently withdrawn by the Land Utilization Department, Province of Sindh on 29 September 2015. The allotments to persons that were made on the basis of those two letters are premised on two separate laws i.e. The Sindh Gothabad Act, 1987 and the Colonization Act, 1912.

3. The matter was heard by us and we questioned the right of the Intervenors to maintain this application on the basis that:

- (i) as per Sub-Section (3) of Section (1) of the Sindh Gothabad Act, 1987, the statute applies to only “rural” Dehs as notified by the Province of Sindh and which clearly cannot include any portion of Karachi which is clearly an “Urban” area and not a rural area and on which basis the Province of Sindh had no jurisdiction to issue such Sanads to the Applicants under the provisions of the Sindh Gothabad Act, 1987;
- (ii) the letter dated 6 April 2012 as issued and on which the title of the Applicants is premised has been cancelled by the Province of Sindh;
and

(iii) the Sanads that have been issued by the Deputy Commissioner to the Applicants are undated;

4. The Counsel for the Intervenors advanced arguments contending that title had been conferred to the Intervenors in terms of the Sindh Gothabad Act, 1987 on the basis of the letter dated 6 April 2012 and against which they had paid consideration and which could not be set aside without the intervenors being duly compensated. He further contended that the demolition order having been passed over the property allotted to the Intervenors, they were necessary and proper parties to these proceedings. The learned Additional Advocate General Sindh has appeared and contended that the basis for the allotments that had been made to the intervenors i.e. the letter dated 6 April 2012 was subsequently withdrawn on 29 September 2015 and all the allotments that had been made to the intervenor are illegal.

5. We have considered the application that has been made. It would seem that by a letter dated 6 April 2012 as many as 70 "Villages" were "regularised" by the Province of Sindh, Land Utilisation Department without any mandate under any law. Realising their fallacy, the Land Utilization Department, Province of Sindh had on 29 September 2015 withdrawn the "regularisation" letter dated 6 April 2012 and cancelled all allotments made pursuant to that letter. It would seem that each of the allotments of those 70 "Villages" are therefore void and the Sanads that have thereafter been issued on the basis of the letter dated 6 April 2012 must also fail.

6. Notwithstanding, the above if one is to independently see the allotments made in favour of some of the intervenors which they claim was made under the provisions of the Sindh Gothabad Act, 1987, it is apparent that not one allotment that has been appended to CMA No.4605 of 2023 that has been issued by that authority in favour of the Intervenors and all the allotments, save one, have been issued by a private entity without any proof of any title of that private person to allot the land. Even if it had been issued by the authority under the Sindh Gothabad Act, 1987, it is noted that under Sub-Section (3) of Section 1 of the Sindh Gothabad Act, 1987, the provisions of that statute are only applicable to a "Deh" which is located within a "Rural" area and not in an "Urban" area such as Karachi. We are therefore clear that the allotments that have been made in favour of the Petitioner are clearly illegal and the Intervenors does not hold any right, title or interest in any property on the basis of the documents appended to CMA No.4605 of 2023 and hence the intervenors cannot claim to be

either “necessary” or “proper” parties to this lis. CMA No.4605 of 2023 is therefore clearly not maintainable and is dismissed with no order as to costs.

7. **CMA No. 4607 of 2023** : This is an application under Order XXXIX Rule 4 that has been maintained by the Intervenors seeking to modify order dated 22 February 2022 and 11 March 2022 passed by this Court which in effect sought the enforcement of order dated 19 November 2021 and 20 January 2022 seeking the demolition of the plots that are owned by the intervenors. On account of CMA No.4605 of 2023 having been dismissed, this Application having been maintained by a person who is not a party to these proceedings is also not maintainable and is dismissed.

8. The Deputy Commissioner East has appeared and confirmed that he has not been able to comply with the orders dated 15 December 2023 and 18 October 2023 passed by this Court on account of a law and order situation that has occurred and seeks additional time to comply. The concerned SSP and the Pakistan Rangers are directed to assist the Deputy Commissioner by ensuring that any law and order situation that may occur will be controlled to ensure the compliance of the order. To come up on **30 January 2024** and on which date the Deputy Commissioner East is directed to appear in person along with a report confirming the compliance of the orders dated 15 December 2023 and 18 October 2023 passed by this Court.

JUDGE

JUDGE

Nasir