

IN THE HIGH COURT OF SINDH, CIRCUIT COURT
HYDERABAD

Constitutional Petition No. D-1099 of 2023

Mr. Muhammad Ayoob Chandio, advocate for the petitioner.

Date of hearing: 20.07.2023
Date of decision: 20.07.2023

KHADIM HUSSAIN TUNIO, J- The petitioner filed the captioned Constitutional Petition seeking a writ of mandamus against official respondents to recover the possession of various lands allegedly owned by the petitioner. It is also alleged by the petitioner in the memo of the petition that the private respondent occupied the land of the petitioner and then filed a civil suit¹ before the Senior Civil Judge Mirpurkhas. An order of the Hon'ble Supreme Court dated 24.12.2018² was also brought on record by the petitioner on which he has relied and his counsel contends that vide said order, concerned officials were directed to verify titles of people in possession of disputed properties and recover their possession accordingly and that any pending disputes pertaining to disputed titles be dealt with expeditiously by the concerned Court.

2. It was contended by the counsel for the petitioner that the official respondents are convening with the private respondent to usurp the land of the petitioner and are using the excuse of the pending civil suit to not recover possession of the illegally occupied lands to the petitioner.

3. A perusal of the record shows that the private respondent Muhammad Bux had filed a suit for specific performance of contract and permanent injunction against the petitioner. In the suit concerned, there is no dispute against the petitioner's title, rather it is admitted in para-02 of the same as "*02/- The suit land originally belongs to defendant No. 1 and his family members.*" A perusal of the order passed by the Hon'ble Apex Court delineates that issues of title must be handled expeditiously by Courts. In seeking writ of mandamus against the official respondents, he has also attempted to undermine the proceedings before the Civil Court without establishing his pleas on undisputed facts. The petition is based on controversial facts which cannot be determined by this Court in its constitutional jurisdiction as they require recording of evidence³. The

¹ First Class Suit No. 38 of 2019

² Human Rights case No. 75077/2018

³ See State Life Insurance Corp. vs Pakistan Tobacco Company Ltd. PLD 1983 SC 280

inception of this extraordinary jurisdiction is rooted in the ideals of swift and efficacious redress where it can be established without needing any elaborate enquiry into disputed facts that the impugned actions of any authority infringe upon legal norms⁴. Courts, as the custodians of justice and the rule of law, bear the duty to prevent the machinery of justice from being misused or exploited. It is imperative that frivolous litigations, which not only encumber the judicial system, but also unjustly vex the opposing party, is sternly dealt with. Such vexatious proceedings, instigated merely to harass or delay, tarnish the sanctity of the judicial process and undermine the very essence of justice. A litigant's tactic to cause undue harassment to its opponent merely based on the perception of an unfavourable outcome is both adverse to the principles of fair play and detrimental to the efficient functioning of the judiciary. However, the concerned Senior Civil Judge is directed to decide the pending civil suit in view of the directions of the Hon'ble Supreme Court vide order dated 24.12.2018, fully in accordance with law within the stipulated period as directed by the Hon'ble Supreme Court under intimation to this Court.

4. For what has been discussed above, the petitioner has miserably failed to prove his case for the issuance of writ of mandamus against the official respondents. Above are the reasons for the dismissal of the instant petition in *limine* vide short order dated 20.07.2023.

JUDGE

JUDGE

⁴ See Mst. Kaniz Fatima vs Muhammad Saleem | 2001 SCMR 1493