

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Const. Petition No. D-431 of 2021

(Qalander Bux Maitlo v. P.O. Sindh & others)

Present:-

**Mr. Justice Muhammad Iqbal Kalhoro &
Mr. Justice Arbab Ali Hakro**

Mr. Hamayoun Shaikh, Advocate for the petitioner.
Mr. Ahmed Ali Shahani, Assistant A.G – Sindh.
Abdul Majeed (respondent No.9) is present in person.

Date of Hearing & Order: **03-10-2023**

ORDER

MUHAMMAD IQBAL KALHORO, J:- Petitioner claims to be owner of property bearing Survey No.644, admeasuring 03-07 acres of Deh Khanpur, which, per him, he had purchased from one Mst. Bhagul. His case is that the respondents No.8&9, the private persons, in collusion with relevant revenue officials, respondents No.3 to 5 got a sale certificate issued in their favour indicating sale of land owned by the petitioner. He, when gained knowledge of such fact, filed an application to respondent No.4, the Mukhtiarkar (Revenue), Khairpur and respondent No.3, the Assistant Commissioner, Khairpur for cancellation of sale certificate in favour of respondents No.8&9. His grievance is that despite such order by respondent No.3, respondent No.5 i.e. the Sub-Registrar, Khairpur is not complying with the same and has started allowing transactions over the survey No. 644 admeasuring 03-07 acres in Deh Khanpur and recording the same.

2. Learned counsel, appearing on behalf of the petitioner, has reiterated the said facts in his arguments. His arguments have been opposed by other side including learned AAG, who has drawn our attention to the written statement filed by the Mukhtiarkar (Revenue), Khairpur. In his statement, the Mukhtiarkar has stated that as per entry No.185 dated 30.09.1972, Mst. Hayat Khatoon had sold out survey No.644, admeasuring 03-07 acres and survey No.645/02-16 acres to Mst. Bhagul alias Imamzadi d/o Qadir Bux Maitlo. Further, as per entry No.44 dated 28.05.1994, Mst. Bhagul alias Imamzadi had sold out land to the petitioner. As per entry No.18 dated 18.11.1996 of VF-VII-B, Foti Khata of Mst. Bhagul alias Imamzadi was changed in the name of her legal heirs in respect of survey Nos. 644/03-07 and 645/02-16 acres of Deh Khanpur and sale certificate was also issued,

which is pending before the Sub-Registrar, Khairpur because of litigation pending between Qalander Bux and Abdul Majeed Maitlo, one of the legal heirs of Mst. Bhagul alias Imamzadi, who as per entry No.44 dated 28.05.1994, had sold out subject land to the petitioner.

3. It is further informed that a Revenue Appeal is pending between the parties before the Assistant Commissioner, Khairpur and a Civil Suit No. 00 of 2021 re: Qalander Bux (petitioner) v. Abdul Majeed and others is also pending adjudication in the Court of 1st Senior Civil Judge, Khairpur. The report of Mukhtiarkar and contents of the petition, when read together, would show that there is a perennial dispute over ownership of the subject land between the petitioner and legal heirs of Mst. Bhagul alias Imamzadi, from whom, the petitioner claims to have purchased the land. Not only in respect of entries reflecting the sale of the subject land in favour of the petitioner by Mst. Bhagul alias Imamzadi is under challenge before the revenue hierarchy by her legal heirs, but the issue of title over the land and an effort to seek declaration in this regard is under consideration in the relevant Court: 1st Senior Civil Judge, Khairpur.

4. In presence of such ongoing litigations over the issue in hand between the parties, which, for the most part pertain to the disputed facts, this Court cannot exercise constitutional jurisdiction to attempt to puzzle out the same, as it requires evidence. Grievance of the petitioner that the Sub-Registrar, Khairpur is not complying with the order of the Assistant Commissioner, Khairpur, is, as spelled out by the Mukhtiarkar, Khairpur, due to the fact of pending litigations, wherein the petitioner himself is a party and he hence knows the reason thereof. Yet his attempt to get relief from this Court by bypassing the litigations pending before the relevant Courts is nothing but a futile effort that is not supposed to bear any fruit for a simple reason that disputed facts need to be decided after a thorough inquiry/evidence which exercise this Court admittedly cannot undertake while exercising constitutional jurisdiction.

5. We seeing the above position find this petition meritless and accordingly **dismiss** it.

JUDGE

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