

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**  
**Constitution Petition No. D-226 of 2021**

*(Syed Safdar Ali Shah Vs. Province of Sindh & others)*

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| DATE OF HEARING | ORDER WITH SIGNATURE OF JUDGE |
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**Before;**

*Adnan-ul-Karim Memon, J;*  
*Muhammad Abdur Rahman, J;*

**Date of hearing and order: 23-04-2024.**

Mr. Ghulam Shabbir Shar, advocate for the petitioner.  
None present on behalf of the intervenors.  
Mr. Najam Dharejo, Special Prosecutor NAB.  
Mr. Ali Raza Baloch, Assistant Advocate General, Sindh.

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**ORDER.**

Petitioner Syed Safdar Ali Shah seeks direction to respondents No.1 to 5 to make a functional drainage scheme in Qadirpur by removing all dirty water from the land of the petitioner so that the subject land be made used for agricultural purposes.

The main theme of the arguments of the learned counsel for the petitioner is that the respondents are duty-bound to clear the drain water so that the same do not pollute into the lands of the petitioner. This request of the petitioner was found reasonable and this Court vide order dated 29-11-2022 observed that the grievance of the petitioner had already been redressed in terms of the statement of learned AAG and the matter was again taken up on 05-03-2024 whereby Assistant Engineer Public Health Division Sub-Division-II Ghotki made a statement that the drainage had been made functional and drainage was/is not spilling over the lands of the petitioners, which stance was refuted by the petitioner.

Keeping in view the contra claim, the Additional Registrar of this Court was appointed as Commissioner to visit the subject land and Scheme run by the Public Health Engineer Department for drainage of water and submit a report on whether the drainage is

functional and the property built and stone pitched or not and is affecting the lands of the petitioner. In compliance whereof the Commissioner visited the site on 16-03-2024 where in he found the drain-sucking machine was properly functioning and the drain was found properly built/cemented and drainage water was not spilling over towards the lands of the petitioner.

At this stage learned counsel for the petitioner has submitted that the petitioner's only intention is that drainage water must not spill over towards the lands of the petitioner and he needs assurance from the respondent department, for learned AAG has submitted that the order has been complied with in its letter and spirit and he will ensure that no damage shall be caused to the lands of the petitioner. He further submitted that so far as the pendency of the Civil Suit No. 174/2021 (Re. Wahid Bux & 11 others Vs. Syed Ghayasuddin Shah through legal heirs) is concerned, the same shall be decided on its own merits and the observation of this Court shall not prejudice the rights of the parties in the civil proceedings. This request seems to be reasonable has not been objected. Since the issue of the petitioner has already been redressed in terms of the inspection report as well as the fresh report of respondent No.4, whereby he has disclosed the factum that the site was found clear and local area people also confirmed that at present problem did not exist. If this is the position of the case this court is left with no option but to dispose of the matter along with pending application(s) in terms of the statement of learned AAG.

In view of the above facts and circumstances of the case coupled with the inspection report as well as the fresh report submitted by the Executive Engineer (Division) Public Health Division Ghotki at Mirpur Mathelo, the petition has served its purpose and is disposed of accordingly.

**Judge**

**Judge**

