

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS
C.P No.D-1779 of 2024

[Bux Ali and another vs. Province of Sindh and others]

Date	Order with signature of the Judge
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Fresh Case

1. For Order on Office Objection
2. For Order on Misc: Appl. No.2354/2024 (Exemption)
3. For Hearing on the main case

07.01.2025

Mr.Rao Faisal, Advocate for the Petitioners

Invoking the aegis of Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the Petitioners herein have implored this Court to enjoin Respondent No.1 to initiate an inquiry against Respondents No.3 and 4 concerning the spurious and concocted entry No.5 dated 04.4.1990. Furthermore, the petitioners beseech the Court to mandate Respondents No.3 and 4 to effectuate the mutation of the Foti Khata Badal in favour of the Petitioners concerning their inherited land.

Upon the erudite presentation of arguments by the learned counsel for the Petitioners and the rigorous examination of the petition's contents, it is incumbent to scrutinize the procedural antecedents before assessing the maintainability of the present petition. The Petitioners initially sought redress by filing a Revenue Appeal under Section 161 of the Sindh Land Revenue Act before the Assistant Commissioner, Taluka Shujjabad, aiming to annul entry No.5 dated 04.4.1990. The official respondents, vide a Rubkari, recommended that this entry, recorded in 1990, be contested before the appropriate judicial forum. In deviation from approaching ADC-I Mirpurkhas, the Petitioners instituted F.C. Suit No.118/2021 before the I-Senior Civil Judge, Mirpurkhas, with prayers mirroring those in the present petition. Nevertheless, the trial court, in its Order dated 27.10.2021, rejected the plaint, articulating that if the Petitioners were aggrieved by the Rubkari, they should seek remedy by filing a proper application or appeal before the relevant revenue authorities. The petitioners abstained from challenging the trial court's Order, which has consequently attained finality.

Jurisprudence dictates that courts exercising extraordinary constitutional jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, are not equipped to adjudicate disputed facts. In the instant petition, the petitioners allege that revenue officials, through fraudulent means, mutated their inherited land to "Pak Asia Industry Pvt. Ltd" and that respondents No.3 and 4 assert that the petitioners' deceased father

sold the land through a sale statement. These contentious facts necessitate a rigorous evidentiary process, not amenable to summary adjudication by this Court. Moreover, the abrogation of entry or mutation of Foti Khata resides within the jurisdiction of revenue authorities. The petitioners have accessible alternative remedies, initially with the Revenue Authorities, followed by the Civil Court. Given the aforementioned legal principles and procedural history, the instant petition is **dismissed in limine**.

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