

## ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

**Civil Revision Application No.S-222 of 2019**

| DATE OF HEARING | ORDER WITH SIGNATURE OF JUDGE |
|-----------------|-------------------------------|
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1. For Orders on office objection.
2. For Orders on CMA No. 1226/2019.
3. For hearing of main case.

**02-09-2024.**

Applicant Abdul Ghani present in person.

Mr. Ahmed Ali Shahani, Assistant Advocate General, Sindh along with Shahnawaz Mukhtiarkar Estate Pano Akil and Zahid Hussain Shah Mukhtiarkar (Revenue) Pano Akil.

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The Statement has been filed respondent No.4 Mukhtiarkar (Revenue) Rohri, which is taken on record.

Learned Assistant Advocate General Sindh states that the claim of the applicant is that he is owner of Qabooli land bearing Block No. 229, 231 & 232 situated in deh Dubar, Taluka Rohri, District Sukkur, and the Government land bearing Block No. 29/6 (03-30) and 30/5 (02-29) which are situated adjacent to his lands as well remained in his possession alongside his Qabooli land; therefore he applied for grant of Block No.29/6, 30/5 measuring (06-19) acres as Mohag right and both of these blocks were granted to him vide grant order dated 08-05-2001, such grant however was challenged by the respondent No.3 Gharibo by filing appeal before Additional Commissioner-II Sukkur, who passed the order dated 07-08-2001 wherein Block No. 30/5 (02-29) was converted to "Asshaish", but grant of Block No. 29/6 (03-30) acres was cancelled

and given to Gharibo. The said order was challenged by the applicant as well as respondent No. 3 Gharibo by filing two separate appeals before the Member Board of Revenue Sindh Hyderabad Camp at Sukkur, who vide order dated 18-03-2002 dismissed the appeal of the applicant, whereas in the appeal filed by the respondent No.3 Gharibo, he set aside the order of Additional Commissioner-II Sukkur and allowed both the blocks in latter's favour. Mukhtiarkar (Revenue) Rohri who is present in Court, states that later-on Gharibo only paid initial deposit; however he never appeared to deposit the required installments; therefore T.O was not issued in his name and on 17-08-2008, he appeared again and requested for the issuance of T.O, but such request was declined as time barred after which he never showed up. Learned AAG states that subject land is Government land and applicant is not entitled for its ownership except Mohag right, hence the applicant has to approach Civil/Competent Court for his relief afresh.

Since no one appears on behalf of the respondent No. 3 Gharibo; however the concerned Mukhtiarkar suggests that as per his record, the respondent No.3 sold out his lands and no one is in possession of the above Blocks and rainy water in these two pieces of land causes inconvenience and spreads diseases.

The fact is that the original litigation started in the year 2001 with the grant of subject lands on Mohag basis and these two blocks were granted to the applicant as per Mohag right and now after the lapse of about 23 years, when there is no contesting party suggesting

the applicant to approach the Civil Court afresh does not appeal to a judicious mind.

With regard to his battle before the Civil Court as well as before the appellate Court, the judgment of the trial Court at page No. 49 shows that his suit was dismissed u/s 42 of the Specific Relief Act suggesting that his claim has no legal character, which to me is utterly unjust. Appeal was also dismissed without much application of mind.

In the circumstances at the hand where the Mohag right does not create a title and land continues to belong to the Government, I do not see that the trial Court's and as well as appellate Court's judgment did any justice to the case of the applicant, who had allotment in his name (page 109) and as such has a convincing legal character. In these circumstances, the instant Civil Revision Application is allowed. Officers present are directed to consider the case of the applicant, let Mohag rights be created in favour of the applicant in accordance with law, however, the Mohag lands at Block Survey Numbers 29/6 and 30/5 total measuring 06-19 acres only to be used for agricultural purposes.

**Judge**