

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**Civil Revision No. S-165 of 2020**

(Muhammad Mureed Solangi vs. Halani Darbar and others)

Date of hearing and Order: 17.02.2025.

Mr. Sheeraz Afazal, Advocate for the applicant.

Mr. Noor Hassan Malik, Advocate for respondents Nos. 1 to 5

Mr. Asfandyar Khan Kharal, AAG along with Asif Ali Shar,
Mukhtiarkar (Revenue) Mehrabpur.**ORDER**

Adnan-ul-Karim Memon J:- The applicant Muhammad Mureed requests the court to set aside the order dated 25-01-2020 passed by the Additional District Judge Kandiaro in FC Suit No. 01 of 2000.

2. This revision application addresses the illegal occupation of Darbar Sahib Halani's property, despite a previous court decree and Supreme Court order for its return. Three separate applications, consolidated were filed seeking action against those illegally occupying the subject property. The appellate court vide order dated 25.1.2020 addressed the illegal occupation of Darbar Sahib Halani's properties and held that some local people had forcibly occupied properties, prompting court action. It is further held that the Supreme Court ordered revenue officials to take possession and determine rent for any occupied properties. However, occupants were given one month to file suit regarding title, but none did. The properties were then handed over to the Darbar management, and new rent agreements were made with those willing to pay. Subsequently, it was discovered in the proceedings that one Liaquat Ali Awan illegally occupied and sold survey number 169 using forged documents. Applicant Muhammad Mureed Solangi occupied survey number 11, claiming ownership and one Shahzado Halepoto occupied a portion of the same survey number without any title documents. However, it was held that one Anad Ram, Honorary Advisor of Darbar Sahib Halani, misused his position and obtained a car from the management. The appellate court, after investigation, directed the revenue authorities to cancel all entries

and sale deeds related to the illegally occupied properties and return them to Darbar Sahib Halani. However Anad Ram was ordered to return the car, which will be sold, and the proceeds deposited into a new Darbar Sahib Halani bank account. Two trustees will manage the account with court oversight. Anad Ram was removed as Honorary Advisor due to his failure to protect Darbar's properties and his involvement in illegal activities. The Managing Trustee was directed to must monthly expenditure and recovery reports and disposed of all applications pending in the matter. An excerpt of the order dated 25.1.2020 is reproduced as under:-

“In view of the above discussions and circumstances, the aforesaid applications are hereby disposed of accordingly. The office is directed to issue letters to concerned officers in order to make compliance of the directions in its letter and spirit.”

3. The applicant's counsel briefed this court, outlining the history of the Darbar Sahib Halani trust and the ongoing property dispute. The learned counsel states that respondent No. 1's suit included the applicant's decision in survey numbers without making him a party to the case is illegal and liable to be set aside. The applicant's subsequent application under Section 12(2) of the CPC was also dismissed, and this dismissal was upheld by the appellate court without assigning reasons. Counsel argued that this revision application is justified due to the applicant's absence from the original suit, errors in the lower courts' judgments, the respondents' lack of valid title, the applicants' property rights in the disputed land, and the flawed nature of the challenged order needs to be looked into by the Court. Therefore, he requested that the case may be sent back to the appellate court for a decision on its merits, after hearing all relevant parties. He also pointed out that the prayer in the FC Suit No. 01 of 2000 under section 92 CPC is asunder:-

The plaintiff respectfully prays that this Honorable Court may be pleased to:

- a) Grant the decree as requested.
- b) Formulate a scheme for the proper management and administration of the Halani Darbar temple and its associated property, taking into consideration the decree and scheme previously established in Civil Suit No. 7 of 1951 by the Honorable District Judge Nawabshah.
- c) In preparing the decree and scheme for the proper management and administration of the temple and its properties at Halani, Taluka Kindiaro, District Noushehro Feroze, consider the decisions (Faisla) made by the Hindu Panchayats of Sukkur Division.
- d) Grant any other relief that this Honorable Court deems just and appropriate for the betterment of the temple.

4. Counsel explained that FC Suit No. 01 of 2000 led to the trust's reconstitution in 2001, defining its terms, appointing trustees, and establishing management procedures. Following a 2012 reconstitution due to internal disputes, illegal occupations of trust properties occurred. By way of judgment dated August 3, 2001 and decree passed by the trial court on August 11, 2001, the following individuals were appointed as trustees of the Hindu Religious Trust, Halani Darbar, under the following terms and conditions:

1. Lal Chand s/o Late Khan Chan Chand, Mamtani, Hindu, adult, r/o Village Kalani, Taluka Kandiaro, District Naushahro Feroze.
2. Mukhi Raj Kumar s/o Tolaram, Hindu, adult, R/O Kandiaro, Taluka Kandiaro, District Naushahro Feroze.
3. Mukhi Bidan Day son of Choithram, Hindu, adult, R/O Shahi Bazar, Naushahro Feroze.
4. Rej Kumar s/o Otanmal, Hindu, adult, Village Halani, R/O Halani, Taluka Kandiaro, District Naushahro Feroze.

Terms and Conditions:

1. All current and future properties belonging to Halani Darbar shall be considered religious public trust property and recorded in the government records under the trustees' names. All trust funds not required for immediate use shall be invested in the trustees' names as soon as possible. The properties shall be managed by the Board of Trustees, which has the power to appoint or remove trustees for any reason.
2. A trustee shall cease to hold office in the following circumstances:
 - a) Misappropriation of trust funds.
 - b) Use of their office for private gain.
 - c) Conviction in any case involving moral turpitude. d) Incapacity to participate in management for over 12 months due to illness.
 - e) Adjudication by a competent court as unfit to manage trust property.

A trustee who is absent from all trust meetings for a continuous period of 12 months without leave, is adjudged bankrupt, becomes incapable of acting, renounces Hinduism, or expresses a desire to resign in writing, or is mentally incapacitated shall also cease to be a trustee. In case of a vacancy, the remaining trustees shall, within two months, fill the vacancy in a meeting, selecting a member of the Hindu community who is a disciple of Halani Darbar. Trustees shall hold ordinary meetings at Halani Darbar every six months. Special meetings may be called by any two trustees with seven days' notice to all other trustees, along with the meeting's agenda. Three trustees shall constitute a quorum. The trustees shall appoint one of themselves as Managing Trustee on terms they deem fit. Plaintiff Otanmal Raj Kumar shall be the first Managing Trustee after this judgment. The Managing Trustee shall actively manage the Darbar and its properties, consulting with other trustees periodically. The trustees shall appoint priests for religious ceremonies at the Darbar on terms and conditions they deem fit.

Objects of the Trust:

- a) Maintenance and repair of the Halani Darbar temple, and all expenses related to daily puja and bhajan.
- b) Maintenance of the Halani Darbar Temple Trust.

c) Reasonable expenditure on repairs, ceremonies in memory of departed Sadhus, observance of gurus' birthdays, and all other religious days commonly observed by Hindus.

d) Expenses for housing and feeding disabled Sadhus at the Darbar Sahib.

e) Generally, expenses for all objects considered religious according to Hindu tradition.

The trustees shall file annual accounts with the District Court Naushahro Feroze and are personally responsible for their accuracy. The trustees shall apply to the District Court Naushahro Feroze for directions regarding any unspecified matters related to the trust and shall not implement any such matter without the court's written consent and sanction.

5. Per learned counsel the Supreme Court, in response to a petition filed by the managing trustee of Hindu properties in various cities, ordered the repossession of the properties in 2018. Counsel stated that this revision application is based on the premise that the applicant was condemned unheard in the proceedings in the original suit/appellate court; there are errors in the lower/appellate courts' judgments, the respondents' lack of title, and the applicants' property interests in the land is under jeopardy, and the unsustainable nature of the impugned order needs to be reversed. He prayed for remitting the matter to the trial or and appellate court for a decision on merits by hearing all concerned parties and recording evidence of Mukhtiarkar.

6. The private respondents initially opposed the revision application. Regarding the decree concerning the properties of Darbar Sahib Halani, the learned counsel emphasized that despite prior actions, further encroachments persist. Specific instances cited include the fraudulent transfer of Survey No. 169 by Liaqat Ali Awan, applicant Mureed Hussain Solangi's occupation of Survey No. 11, and Shahzado Halepoto's occupation of a portion of that same survey number, in addition to several other individuals illegally occupying portions of the land. The Managing Trustee, Mukhi Raj Kumar, petitioned the Supreme Court, resulting in a 2018 order for repossession. Counsel further submitted that the trial court directed revenue authorities to correct land records, ordered Anand Ram to return a trust vehicle and removed him as an honorary advisor. Consequently, the applicant's revenue entry was canceled, and the pending applications were disposed of with these directives from the appellate court.

7. The Mukhtiarkar, present in court, acknowledged the discrepancy between the official land records and the current situation on the ground.

While the records reflect the 1 acre and 32 ghuntas of Survey No. 11 reverting to Darbar Halani, applicant Mureed Solangi is currently cultivating that portion. The Mukhtiarkar detailed the land's history, explaining that Survey No. 11 (part of a larger 96-acre and 24 ghunta holding) was initially registered in the name of Bao Madhandas (Darbar Halani). He then outlined subsequent entries: a transfer to the Sindh Land Commission (noted in entry No. 112 of VF-VIIB); the transfer of 41 acres and 7 ghuntas (including the disputed 1 acre and 32 ghuntas) to the Commission from the Menhoon Mal Managing Trust Halani Darbar (based on official letters dated December 23, 1995, and June 21, 1995); and the subsequent registration of the 1 acre and 32 ghuntas to applicant Mureed Solangi (allotment order dated October 7, 1997, on a "harp" basis). Crucially, the Mukhtiarkar emphasized the record of the cancellation of this allotment and the land's return to Darbar Halani, pursuant to the appellate court order (dated February 8, 2020) in FC Suit No. 01/2000 (dated January 25, 2020). He also noted the allocation of 29 ghuntas from Survey No. 11 to the NHA-5. The Mukhtiarkar then described the current land use: shops and a house (11 ghuntas); an animal hospital (1 acre and 3 ghuntas); houses (17 ghuntas); the NHA-5 allocation (29 ghuntas); applicant Mureed Solangi's wheat cultivation (1 acre and 32 ghuntas); and uncultivated land belonging to Darbar Halani (1 acre and 16 ghuntas). The central issue, as the Mukhtiarkar highlighted, is the clear contradiction between the official records (showing the land returned to Darbar Halani) and applicant Solangi's continued cultivation of the 1 acre and 32 ghuntas. An excerpt of the subject land status report is reproduced as under:-

<i>S.NO.</i>	<i>Entry No.</i>	<i>Details about Entry</i>
	<i>Vf-VII-A 499 dated 1985-86 of Deh Halani.</i>	<i>According to this entry, the S.No.11 (06-00) acres & others total area (96-24) acres entered in the name of Bao Madhandas (Darbar Halani). Further perusal of this entry a note as per entry No.112 of VF-VIIB, the S.No.11, 16 & others entered in favour of Sindh Land Commission. Such note is affixed on the original entry (Copy attached for kind perusal of Honourable Court at annexure-A)</i>
2	<i>Vf-VII-B 112 dated 17.12.1995 of Deh Halani.</i>	<i>According to this entry, an AREA (41-07) acres out of S.No. 11(06-00) acres (an area 01-32 acres out of S.No.11) & others survey numbers entered in favour of Sindh Land Commission, transferred from Menhoon Mal Managing Trust Halani Darbar on the basis of letter No. HVC/1865 dated 23-12-1995 of</i>

		<i>Deputy Commissioner Naushehro Feroze and letter No.RO/S-5-109 dated 21.06.1995 OF Land Commissioenr Sukkur Division @ Sukkur . (Copy attached for kind perusal of Honourable Court at annexure-B)</i>
3	<i>Vf-VII-B 178 dated 25.09.1997 of Deh Halani.</i>	<i>According to this entry, an area (01-32) acres out of S.No.11 (06-00) acres are entered in the name of Mureed S/O Sukhio Soalngi allotted him from Sindh Land Commission of Pakistan on the basis of Order No.x dated 07.10.1997 and allotment order on Harap condiditons right of Deputy Commissioner/Land Commissioner Naushehro Feroze. A note regarding cancellation of said property and made in the name of Darbar Halani, in compliance of letter No. ADJ-341 Kandiaro dated 08.02.2020 of Honourable Additional District Judge Kandiaro, of Honourable Additional District Judge Kandiaro vide order dated 25.01.2020 passed in FC Suit No.01/2000, is kept on original entry (Copoly attached for kind perusal of Honourable Courty at annexure-C)</i>
4	<i>Vf-VII-B 775 dated 31.12.2024 of Deh Halani.</i>	<i>According to this entry, an area (00-29) ghuntas out of S.No.11(06-00) acres are entered in favour of National Highway Authroity Sukkur (NHA-5). (Copy attached for kind perusal of Honourable Court at annexure-D).</i>
5	<i>Ground position of S.No.11(06-00) acres of deh Halani.</i>	<i>That the ground position reveals the following facts.</i> <ol style="list-style-type: none"> <i>1.The shops and house of Khalid and Mour Halipota in (00-11) ghuntas.</i> <i>2. Animal Hospital in)01-03) acres.</i> <i>3. The houses of Shahzado & Habibullah Hallipota in (00-17) ghuntas.</i> <i>4. Under NHA-5 Sukkur (00-29) ghuntas.</i> <i>5. Muhammad Mureed Soalngi cultivated wheat crop in (01-32) acres.</i> <i>6. uncultivated agri. Land (Darbar Halani) (01-16) acres (Site sketch at annexure-E).</i>

8. On December 24, 2018, the Supreme Court, after reviewing a report verifying land ownership, ordered the immediate repossession of disputed Hindu properties by the Tehsildars/Mukhtiarkars, as the occupants lacked valid title. For rented properties, the rent was to be collected and deposited in the relevant Rent Courts/Tribunals. For properties occupied without rent, the Tehsildars/Mukhtiarkars were directed to determine a fair market rent, which the occupants were then required to pay to the Rent Court/Tribunal. The Supreme Court stipulated a six-month deadline for any pending title disputes to be resolved by the

respective courts. Anyone wishing to challenge the applicant's title, assert their own title, or claim possession based on a sale agreement was required to file a suit within one month, with such suits to be decided within six months of filing. Ownership and possession would be subject to the final court decisions on title. The Tehsildars/Mukhtiarkars were instructed to maintain records of all benefits/profits derived from the repossessed properties, ensuring that these "mesne profits" would be paid to the ultimately rightful owner. With these directives, the Supreme Court concluded the matter.

9. The parties present in court and their counsel agreed to send the revision application back to the appellate court for a fresh decision. The appellate court will hear from all involved parties, including the Mukhtiarkar, and must decide the case within two months. This decision will determine if the disputed property belongs entirely to the Halani Darbar Hindu Religious Trust, or if the applicant's occupation of a portion of the land is legitimate. During this period, the current possession status will remain unchanged, and neither party will be harassed. Police will remain neutral unless specifically ordered otherwise by the court. The Deputy Commissioner and SSP Nausharo Feroze are responsible for maintaining law and order. Let a copy of this order be communicated to the appellate court, Deputy Commissioner, and SSP Nausharo Feroze for compliance.

10. The revision application stands disposed of in the above terms.

J U D G E

