

ORDER SHEET  
IN THE HIGH COURT OF SINDH,  
CIRCUIT COURT, HYDERABAD

**CP No. D- 224 of 2013**

DATE	ORDER WITH SIGNATURE OF JUDGE
09.02.2016	

1. For Katcha Peshi
2. For Hearing of MA 12699/14
3. For Hearing of MA 12700/14

Mian Taj Muhammad Keerio, Advocate for petitioner  
Mr. Irfan Ahmed Qureshi, Advocate for respondents  
Mr. Allah Bachayo Soomro Addl.A.G. a/w Ghulam Qadir Jamali  
Assistant Office of Mukhtiarkar Gothabad, Badin.

The petitioner claims to be resident of village Rai Sahab Aasodomal / Gul Muhammad Khaskheli which according to him exists since the British Era. His case is that his village consists of 11-00 acres and out of which 6-00 acres from Survey No. 612 was reserved for the village but then after showing the original map by the villagers 11-00 acres were granted to the village out of which 5-00 acres were reserved for aasaish / amenity purpose. In the said village there are 70/80 katcha and pacca houses of Khaskheli and Kolhi community. It is alleged that respondent No.6 & 7 who are resident of some other village have occupied the land reserved for aasaish and have made some construction over it. The petitioner alongwith other villagers approached the concerned authorities for redressal of their grievance, but no heed was paid, hence they have filed the instant petition with following prayer:-

- a. Direct the respondents No. 1 to 5 to save the Asaish land from the land grabbers and take all necessary measures to reserve the same for Asaish of the villagers including amenity purposes.
- b. direct the respondents No. 1, 3 and 4 to take legal action according to law against the respondents No.6 and 7 and others and get vacate government land, reserved for easement / Asaish of the villagers from the illegal possession of the respondents No. 6 and 7 and others and handover the same to the villagers and the respondents No. 2 and 5 may be directed to provide help to the respondents No. 1,3 and 4 at the time of getting vacate the occupied land from the respondents No. 6 and 7.

- c. direct the respondents No.1 to 5 to ensure the safety and protection of the petitioner and other villagers and also ensure that no harassment will be caused to the petitioner and other villagers.

On the other hand, case of the respondent Nos. 6 and 7 is that they have been residing over the same area of village before the village was surveyed and in terms of Section 3 of Sindh Gothabad, Scheme 1997 they have right of allotment over the said land. It is further claimed by respondent Nos. 6 and 7 that there is no document showing that this land is reserved for aasaish / amenity purpose and they being the co-villagers have equal right to use the same.

Official respondents have also filed their comments. As per comments the area of 5-00 acres of land was reserved for the said village for aasaish purpose, upon which respondent Nos. 6 and 7 have made encroachment.

Mian Taj Muhammad Keerio, counsel for petitioner while arguing this petition has referred to several documents showing that respondent Nos. 6 and 7 are not the co-villagers as claimed by them and on the contrary the respondent Nos. 6 and 7 have not produced any document to show that they have any right to occupy the land reserved for aasaish purpose. He has shown the comments of official respondents in which they have categorically stated that the land is reserved for aasaish purpose which has been encroached upon by the respondent Nos. 6 and 7.

Mr. Irfan Ahmed Qureshi, counsel for respondent Nos. 6 and 7 has referred to several sections of Sindh Gothabad Housing Scheme to establish his case.

Mr. Allah Bachayo Soomro, Addl.A.G. has vehemently contended that respondent Nos. 6 and 7 are encroachers and various reports have been called from the authorities concerned who have confirmed this fact. He has referred to the report of Mukhtiarkar, Gothabad, District Badin, Deputy Commissioner, Badin to show that over the land in the said village Khaskheli and Kolhi communities are residing. According to him respondent Nos. 6 and 7 are strangers and in official record nowhere their names appear. He has also sought direction to the authorities concerned to evict the encroachers from the land reserved for aasaish purpose.

We have heard the counsel and perused the material available on record including the case law cited by the counsel for petitioner at bar. There are

various documents submitted by the official respondents which shows that this village namely Haji Ali Bux Chandio, Deh Doonghado Taluka & District Badin exists since pre-partition and it contained initially an area of 11-00 acres and after migration of Hindus from the village it was identified as village Gul Muhammad Khaskheli and after promulgation of Sindh Gothabad Scheme on the application of the villagers it was regularized and an area of 6-00 acres was reserved for the village. These official documents further indicate that 5-00 acres out of that was reserved for aasaish of amenity plot and from site inspection carried out by the official respondents it was found that this land basically is a government land and has been reserved for amenity purpose and has been encroached upon by respondent Nos. 6 and 7. Although learned counsel for respondent Nos. 6 and 7 have referred to various sections of Sindh Gothabad Scheme to establish his case of occupancy over the said land but he has not placed any document on record to show that in what capacity they have occupied the government land reserved for amenity. It is further obvious from the counter affidavit of respondent No.6 which he has filed in this petition that he is resident of some other village i.e. Haji Allah Bux Chandio which is situated in Deh Doonghado. As per his own admission he is not resident of the same village and his occupancy and making construction over the land does not seem to be justified.

We in the circumstances while disposing of this petition, direct the official respondents to remove the encroachment immediately from the said land and submit such compliance report before this court within 15 days. We further direct that necessary steps shall be taken that and ensure that the said government land which is reserved for aasaish purposed is not encroached by any of the villager in future.

This petition is disposed of accordingly.

JUDGE

JUDGE

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