THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

BEFORE:
Justice Arbab Ali Hakro
Justice Muhammad Osman Ali Hadi

Const. Petition No. D-730 of 2023

[Mst. Zaib-un-Nissa Mashori Vs. Mukhtiarkar Taluka Bakrani & others]

Petitioner	**:**	Through Mr. Habibullah G. Ghouri, Advocate
Respondents No.1 to 8	**:**	Through Mr. Abdul Waris Bhutto, Assistant Advocate General, Sindh along with Muhammad Ahmed Tunio, Mukhtiarkar Barkrani
Respondent No.9	**:**	Through Mr. Mazhar Ali Bhutto, Advocate
Date of Hearing	**:**	**17-11-2026**
Date of Order	**:**	**17-11-2026**

O R D E R

ARBAB ALI HAKRO, J.- Through this petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (hereinafter referred to as '**the Constitution**'), the petitioner has challenged the inquiry report dated 30.10.2023 (**the impugned report**) submitted by respondent No.6, the Additional Secretary, Board of Revenue, Sindh, and seeks a restraint against its implementation and against any adverse action affecting Survey No.307, measuring 01-02 acres, Deh Kania, Taluka Bakrani, District Larkana (hereinafter referred to as '**the subject land**') and its revenue record.

2. The petitioner claims that the subject land originally belonged to Mst. Shahzadi Zahra Bakht, from whom her husband, Al-Haj Shafi Muhammad Mashori, purchased it in 1972-73. He sold it to her by a registered sale deed in January 2016, after which Entry No. 78, dated 13.04.2016, was recorded in her favour in VF-VII-B.

3. Respondent No.9 complained to the revenue authorities that the record of the subject land had been tampered with. By order dated 10.10.2023, the Senior Member, Board of Revenue, appointed Respondent

No.6 as Enquiry Officer under the Sindh Civil Servants (Efficiency and Discipline) Rules, 1973 (hereinafter referred to as '**the E&D Rules**'). In the impugned report, he recorded that Entry No.416, dated 04.03.1987, had been overwritten to show the petitioner's husband as the purchaser in place of Shahnawaz Mashori, father of Respondent No.9; that an unnumbered entry in the name of the petitioner's husband had been inserted between Entries No.03 and 04 of the re-written VF-VII-A and does not appear in the micro-filmed record; and that Entry No.118 of 08.03.1973 was doubtful. He went on to hold that the entire subject land belongs to Shahnawaz Mashori and recommended that the Mukhtiarkar be directed to cancel Entry No.416 and the inserted entry, to post a fresh entry in favour of Shahnawaz Mashori, to seek cancellation of Entry No.78 through the civil court, to stop further transactions, and to impose a minor penalty on the Tapedar concerned.

4. The Board of Revenue forwarded the impugned report to the Deputy Commissioner, Larkana, on 13.11.2023, requesting that the matter be probed and, if substantial material was found, that it be referred to the Commissioner under Section 164(2) of the Sindh Land Revenue Act, 1967 (hereinafter referred to as '**the Act of 1967**'). Thereafter, the Assistant Commissioner, Bakrani, by letter dated 07.12.2023, directed the Mukhtiarkar to place a note in red ink on the entries to prevent further transactions.

5. Respondents No. 6 and 7, in their comments, maintain that the inquiry was held under the E&D Rules on the order of the competent authority; that the impugned report is only a recommendation; that the petitioner has not availed of the remedies under the revenue law; and that the controversy calls for evidence before the civil court.

6. Learned counsel for the petitioner submits that the impugned report was prepared behind the petitioner's back, without notice or hearing; that an Enquiry Officer under the E&D Rules has no authority to pronounce on ownership or to advise the cancellation of entries based on a registered sale deed; and that the report is contradictory, in that it proposes the cancellation of some entries by the revenue staff and of others through the civil court.

7. Learned Assistant Advocate General has opposed the petition on the grounds set out in the comments.

8. Learned counsel for respondent No. 9 has supported the impugned report and submits that the tampering is borne out by the microfilmed record and the reports of the Sub-Registrar, that the report decides nothing finally, and that the petitioner, if aggrieved, may go to the civil court.

9. We have heard learned counsel for the parties and have perused the record.

10. The objection that the impugned report is recommendatory is correct only up to a point. A bare recommendation would not ordinarily furnish a cause under Article 199 of the Constitution. Here, however, the report does not stop at fixing responsibility upon the officials. It declares who owns the subject land and advises that entries standing in the chain of the petitioner be struck off and replaced. It has already been acted upon to the extent of the red-ink note. Those entries carry the presumption of truth under Section 52 of the Act of 1967. To that extent, the petitioner is an aggrieved party. She has no grievance to make, and none was pressed, against that part of the report which concerns the conduct of the revenue officials.

11. Respondent No. 6 derived his authority from the order dated 10.10.2023 and the E&D Rules, and from no other source. That authority extended to determining whether the record had been tampered with and to identifying which official was answerable. It did not extend to deciding in whose name the record of rights should stand. That function belongs to the revenue officers acting under the Act of 1967, and, where title is in dispute, to the civil court. The Board of Revenue itself did not treat the report as an order on the entries; its letter of 13.11.2023 routes the matter to the Commissioner under Section 164 of the Act of 1967.

12. It is not disputed that the petitioner was neither noticed nor heard. In ***Muhammad Faraz***[1], the Supreme Court held that the Board of Revenue may, in revision, pass such an order as it thinks fit, the only limitation being that no order shall be passed without giving the affected person an opportunity of being heard. The Federal Constitutional Court has recently reiterated that an order affecting rights in property, made without notice,

[1] *Muhammad Faraz v. Abdul Rashid Khan* 1984 SCMR 724

offends the rule of *audi alteram partem* read with Articles 4 and 10A of the Constitution, and that an allegation of fraud does not, by itself, confer jurisdiction.[2] The conclusions on ownership and the advice to cancel and substitute entries, having been reached without jurisdiction and without hearing the person affected, cannot form the basis for any change in the record.

13. Equally, the petitioner cannot ask this Court to declare her entries genuine. The comparison with the micro-filmed record and the Sub-Registrar's reports on the registered sale deeds of 1973 and 1987 raise serious questions about the chain on which she relies. Whether Entry No.118 is authentic, whether Entry No.416 was overwritten and, if so, at whose instance, and whether the sale deed of 2016 conveyed any title are matters that can be settled only on evidence. The Supreme Court has held in ***Amir Jamal*** [3] that the question of title cannot be gone into in constitutional jurisdiction and that a registered instrument can be cancelled, on the ground of fraud or otherwise, only by a civil court of competent jurisdiction; the jurisdiction under Article 199 is meant to cure an illegality that can be established without an elaborate inquiry into disputed facts. The law provides the forum. A person aggrieved by an entry may seek redress in the revenue hierarchy and thereafter sue for a declaration under Section 53 of the Act of 1967. The jurisdiction of the civil court to examine the correctness of revenue entries is not ousted.[4]

14. In this view of the matter, the impugned report cannot be quashed in its entirety, for that would efface a disciplinary inquiry with which the petitioner has no concern and would lend the protection of this Court to a record that is seriously in question. Nor can the petition be dismissed, for that would leave the petitioner exposed to the cancellation of her entries on the advice of an officer who had no power to give it and who did not hear her. As to the red-ink note, it cancels nothing and only preserves the position. As the relief under Article 199 is discretionary, we are not inclined,

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[2] *Muhammad Ahmad Yousaf v. Muhammad Adeel Akhtar* (F.C.P.L.A. No.168-L of 2026, decided on 24.09.2026)
[3] *Amir Jamal v. Malik Zahoor-ul-Haq* 2011 SCMR 1023; *Dr. Abdul Nabi v. Executive Officer, Cantonment Board, Quetta* 2023 SCMR 1267
[4] *Muhammad Faraz* (n.1 above); *Muhammad Yousaf v. Khan Bahadur* 1992 SCMR 2334

on the material before us, to free the subject land for transfer while the genuineness of the entries is yet to be examined by the competent forum.

15. For the foregoing reasons, the petition is **disposed of** as follows:

(i) The impugned report, in so far as it relates to the conduct of the revenue officials and the action proposed against them under the E&D Rules, is not interfered with.

(ii) The findings and recommendations in the impugned report regarding the ownership of the subject land and the cancellation or substitution of Entries No. 416 and 78 of VF-VII-B and the entry in VF-VII-A are declared to be without lawful authority to the extent that they shall not be treated as a determination of the rights of the petitioner or of respondent No. 9, and shall not be given effect to by any administrative direction.

(iii) No entry standing in the name of the petitioner or her predecessor-in-interest shall be cancelled or altered except by an order of the competent revenue forum under the Act of 1967, passed after notice and hearing to the petitioner and respondent No. 9 and for reasons to be recorded, or in compliance with a decree or order of a civil court. If the matter is referred or stands referred under section 164 of the Act of 1967, the Commissioner shall decide it on the original record and the material produced by both sides, uninfluenced by the conclusions on ownership in the impugned report, preferably within ninety days of receipt of this order.

(iv) The note placed on the entries pursuant to the letter dated 07.12.2023 shall operate only as a caution against any further transfer of the subject land until the decision under clause (iii), and thereafter subject to that decision or to any order of the civil court.

(v) The questions of forgery, the genuineness of the rival entries, and title, including the validity of the registered sale deed of 2016, are left open. The parties are at liberty to approach the civil court, which shall decide the same on evidence and in accordance with law, without being influenced by any observation made herein.

16. The petition, along with the pending application, stands disposed of in the above terms. There shall be no order as to costs.

JUDGE

JUDGE

Zulfiqar