HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P. No.D-2878 of 2017
[Syed Fahimuddin vs. Province of Sindh and others]

Before:
JUSTICE ADNAN-UL-KARIM MEMON
JUSTICE MUHAMMAD JAFFER RAZA

Petitioner:	Through Mr. Tahir Nisar Rajput, Advocate
Respondents:	Through Mr. Rafique Ahmed Dahri, Additional A.G. Sindh
Date of hearing	03.11.2026
Date of Decision	03.11.2026

O R D E R
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ADNAN-UL-KARIM MEMON J The petitioner, founder of Youth Welfare Society Latifabad, a registered NGO, has filed this Constitutional Petition seeking allotment of approximately 25,000 square yards of government land situated in Deh Mal, Latifabad, Hyderabad, for the construction of a charitable hospital to provide medical facilities to residents of the surrounding localities and villages.

2. Learned counsel for the petitioner contends that the Society applied for allotment of the land in 1998, whereafter reports were obtained from the concerned revenue authorities confirming that the land was vacant government land suitable for the proposed hospital. Various revenue authorities processed the matter, and several applications and representations were submitted to the competent authorities from time to time; that despite completion of requisite formalities and submission of reports, the allotment summary remained pending before the competent authority without any final decision; that the Assistant Commissioner, Latifabad, granted permission vide letter dated 07.11.2006 for construction of two-room OPD; however, the project could not proceed due to non-issuance of allotment/lease order; that certain private persons, in collusion with police officials, illegally encroached upon the land intended for the charitable hospital, while the petitioner and members of the Society were subjected to harassment and threats for resisting such encroachment; that learned Magistrate declined the police-initiated proceeding under Section 145 Cr.P.C. vide order dated 24.08.2017. Reliance has also been placed upon the order dated 04.05.2011 passed in C.P. No. D-1001/2010, whereby the concerned authorities were directed to decide an application regarding a similar matter within 60 days. The petitioner, therefore, seeks directions for

approval of the pending allotment summary, removal of encroachments from the government land, initiation of legal action against the alleged land grabbers, and protection against harassment by the police and private respondents. Learned counsel lastly submitted that since the petitioner has passed away during pendency of the petition, as such he has no further instruction by the legal heirs who are not forthcoming to pursue the case; if this is the position of the case, this petition needs to be disposed of first by ascertaining the status of the land and issue of encroachment, if any, as this petition is related to public interest.

3. Learned AAG contends that the matter essentially pertains to the determination of legal status, ownership and possession of the government land in question, including the allegation of encroachment, which falls within the jurisdiction of the Revenue Authorities; that the petitioner has passed away and his legal heirs have not come forward to pursue the matter; therefore, no effective relief regarding allotment can be granted in absence of legal representatives. However, keeping in view the public interest involved and the allegation of encroachment upon government land, learned AAG suggests that Deputy Commissioner, Hyderabad, may be directed to inspect the site along with the concerned revenue officials, verify the relevant revenue record and take appropriate action in accordance with law if any illegal encroachment is found.

4. Respondent No.11 has denied the allegations of harassment, contending that he has never harassed or interfered with the petitioner in any manner. He has adopted the comments submitted by the SHO, Police Station Airport, and stated that necessary assistance would be provided to the petitioner whenever approached in accordance with law. He has, therefore, sought deletion of his name from the array of respondents.

5. SSP Hyderabad has submitted that the dispute relates to the demarcation of land and removal of alleged encroachments, which falls within the domain of Revenue Department. The police merely initiated proceedings under Section 145 Cr.P.C. to prevent any untoward incident and referred the matter to the competent Executive Magistrate, without interfering in the parties' respective claims over the property.

6. In view of the submissions advanced by the learned counsel for the parties, the controversy primarily relates to the legal status, ownership and possession of the government land in question and the alleged encroachments thereupon, which require factual verification by the competent Revenue Authority.

7. Accordingly, without expressing any opinion on the merits of the petitioner's claim for allotment, this petition is disposed of with directions to the Deputy Commissioner, Hyderabad, to personally visit the site along with the

concerned Mukhtiarkar and other relevant revenue officials, inspect the land in question, verify its revenue record, ascertain its legal status and determine whether any encroachment has been made thereupon. In the event any illegal encroachment is found, the Deputy Commissioner shall ensure its immediate removal in accordance with law and restore the land to its original position and intended purpose, subject to verification of the lawful allotment and applicable record. The entire exercise shall be completed within three weeks from receipt of this order. The Deputy Commissioner shall submit a compliance report before this Court upon completion of the exercise.

JUDGE

JUDGE

Karar_Hussain/PS*