HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P. No.D-3817 of 2017
[Iqbal Ahmad vs. Province of Sindh and others]

C.P. No.D-451 of 2018
[Muhammad Siddique and another vs. Province of Sindh and others]

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

Petitioners: *In C.P No.D-3817/2017*	Through Mr. Aamir Ali Memon, Advocate, who is also representing the respondent No.8 in C.P No.D-451 of 2018
Petitioners: *In C.P No.D-451 of 2018*	None present
Private respondents *In C.P No.D-3817/2017*	None present
Private respondents 7,9&10 *In C.P No.D-451/2018*	None present
Official respondents:	Through Mr. Rafique Ahmed Dahri, Additional A.G Sindh
Date of hearing	30.10.2026
Date of Decision	30.10.2026

O R D E R

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ADNAN-UL-KARIM MEMON J Petitioner in C.P. No.D-3817 of 2017 claims to be the lawful owner and possessor of plots bearing City Survey Nos. 68/P71 (177.77 sq. yds.) and 68/P73 (133.33 sq. yds.), situated in Ward-A, Hala, District Matiari, through registered sale deeds.

2. Learned counsel for the petitioner contends that in 2011 respondents 9 & 10, along with others, unlawfully interfered with his possession and obstructed construction, compelling him to institute civil proceedings. Subsequently, the parties entered into a compromise, which culminated in a judgment and decree dated 28.11.2016, acknowledging the petitioner's ownership and possession. He further contends that despite the previous order dated 13.09.2017 passed by this Court in C.P. No.1212/2017, respondents 3 to 8, at the instance of private respondents 9 to 11, again threatened and harassed him, obstructed construction and threatened to implicate him in false cases. He alleges that due to such interference, he was compelled to stop construction and has approached this Court seeking protection of his lawful rights and a departmental inquiry against the concerned officials.

3. Learned AAG denied the petitioner's ownership and possession over the disputed plots, contending that City Survey Nos.68/P71 and 68/P73 fall within Latif Colony and constitute Government land, whereas Solangi Colony falls under City Survey No.2016 and was leased out by the Sindh Katchi Abadi Authority. They assert that on 26.12.2017 the petitioner, along with land grabbers, illegally occupied government land and commenced construction near Government Girls Degree College, Hala New, whereupon the illegal encroachment was removed in the public interest under the Sindh Public Property (Removal of Encroachment) Act, 2010. He further contends that the compromise decree dated 28.11.2016 is collusive and fraudulent, having been obtained without impleading Mukhtiarkar Hala, the custodian of revenue record. He states that an application under Section 12(2) CPC is being initiated to challenge the said decree. He maintains that the petitioner is attempting to grab government land under the guise of ownership and that the location and legality of the alleged lease should be verified through the approved layout plan and record of the Sindh Katchi Abadi Authority. He prayed to dismiss the petition.

4. Petitioner in C.P. No. D-451 of 2018, seeking directions to the official respondents to demarcate City Survey No.2016, Ward-A, Hala, being used as a Mukkam and for religious purposes by the Shia community for last about 150 years, and to protect the same along with adjoining government and public properties from illegal encroachment. The petitioners averred that respondents 7 to 10, claiming ownership of various plots in City Survey No.68, have been attempting to establish their plots over the disputed area comprising City Survey No. 2016, the road leading to Government Girls College, and the public disposal known as Ali Ganj Wah. They assert that City Survey No.68 is already situated elsewhere and recorded as Government Open Space, whereas the disputed land is being used for religious purposes and public utility. It is further contended that civil suits filed by respondents 7 to 10 were disposed of by compromise decrees dated 28.11.2016, while the petitioner's suit was also withdrawn on the same terms. The petitioners further rely upon the report of Mukhtiarkar (Revenue), Hala, submitted in Civil Appeal No.41 of 2012, wherein City Survey No.68 was reported to be the government land recorded in the name of Latif Colony. The petitioners allege that respondent No.7 has forcibly raised construction, obstructed the road leading to Government Girls College, and filled up the public disposal, thereby attempting to encroach upon government and public property. They added that despite repeated applications seeking demarcation and lawful action, the official respondents have failed to resolve the controversy. Hence, the captioned petition has been filed seeking demarcation of City Survey No.2016, protection of the religious and public property, and restraint against respondents 7 to 10 from making further encroachments.

5. We have heard learned counsel for the parties present and perused the available record.

6. It appears that the controversy in both petitions primarily revolves around the identification, location and ownership of City Survey Nos.68 and 2016, Ward-A, Hala, and the competing claims regarding the disputed land. While the petitioner in C.P. No.D-3817 of 2017 relies upon registered sale deeds and a compromise decree dated 28.11.2016 in support of his ownership and possession, the petitioners in C.P. No.D-451 of 2018 claim that the disputed area forms part of City Survey No.2016, which is being used for religious purposes, besides comprising a public road and disposal. The official respondents, on the other hand, dispute the petitioner's claim and maintain that the land in question belongs to the Government.

7. In these circumstances, the matter involves disputed questions of facts relating to the exact location, boundaries, nature and status of the respective properties, which cannot appropriately be determined in the constitutional jurisdiction of this court under Article 199 of the Constitution, without proper examination of the original revenue record, city survey maps, approved layout plan and relevant documents, which is the function of the revenue hierarchy under the Revenue Law.

8. Moreover, the legal effect and validity of the compromise decree dated 28.11.2016, particularly in view of the objections raised by the official respondents, would also require determination by the competent civil Court. A compromise decree between private parties, by itself, cannot confer title over government land or defeat public rights, if the property is ultimately found to be public property, therefore this aspect of the case needs to be ascertained by the Revenue officials at the first instance by examining the revenue record.

9. Nevertheless, the allegations regarding encroachment upon government land, a public road, disposal, and property reserved for religious purposes cannot be ignored. The official respondents are under legal obligation to protect public property and maintain the sanctity of the revenue record. Accordingly, the competent revenue authorities, including Mukhtiarkar, Assistant Commissioner and Deputy Commissioner, assisted by the City Survey Department, are required to undertake a fair and transparent demarcation of the disputed area, after associating all concerned parties, including the petitioners, private respondents and relevant government departments, and determine the actual location and boundaries of City Survey Nos.68 and 2016 strictly in accordance with the original revenue record, city survey maps and approved layout plan, within two months.

10. Consequently, without touching the merits of the case, both petitions are disposed of with directions to the Mukhtiarkar, Assistant Commissioner and

Deputy Commissioner, assisted by the City Survey Department/ competent officials, respondents to conduct the demarcation proceedings in accordance with law, after providing an opportunity of hearing to all concerned, and take appropriate action against any person found to have encroached upon government or public property just after ascertaining the position. It is clarified that such exercise shall not be construed as recognition or declaration of ownership in favour of any party, and the rights of the parties arising out of registered documents or the compromise decree shall remain subject to determination by the competent civil court after proper demarcation reports. However, it is made clear that during the demarcation process, parties shall maintain status quo, and if any of the parties creates trouble the Deputy Commissioner shall take action under section 154 Cr.P.C.

Let a copy of this order be communicated to all concerned for compliance in time.

JUDGE

JUDGE

Karar_Hussain/PS*