

IN THE SUPREME COURT OF PAKISTAN
(ORIGINAL JURISDICTION)

PRESENT:

MR. JUSTICE TASSADUQ HUSSAIN JILLANI, HCJ
 MR. JUSTICE SH. AZMAT SAEED
 MR. JUSTICE MUSHIR ALAM

S.M.C. NO. 16 OF 2011 ETCETERA

(Suo moto action regarding law and order
 situation in Karachi)
 (Implementation)

In Attendance:

Mr. Fateh Mohammad Malik, Advocate
 General, Sindh
 Mr. Maqsood Ahmed, SP (R)
 Lt. Commander Muhammad Afzal,
 Director Legal, Pak Maritime Security
 Mr. Sher M.K. Sh, P.G, Sindh
 Mr. Muhammad Yousaf Leghari, ASC (In
 CMA 297-K/2014)
 Mr. Rasheed A. Rizvi, Sr. ASC
 Mr. Muhammad Arif Khan, ASC (In CMA
 No. 444-K/2013)
 Mr. Zia ul Haq Makhdoom, ASC
 Dr. Muhammad Nawaz Sh, SP
 Major Shahzad Saleem, D.A. JAG Branch
 Mr. Z.K. Jatoi, ASC
 Mr. Ali Sher Jakhrani, AIG Legal
 Mr. Bashir Memon, in person
 Mr. Mazher Ali B. Chohan, AOR
 Mr. Iftikhar Ahmed, Addl. Collector
 Customs Karachi
 Mr. Arshad Ali, in person
 Syed Mehmood Akhtar Naqvi, ASC
 Mr. Abdul Kader Jaffer, in person
 Mr. Aftab Memon, Member, BOR
 Malik Israr Hussain, Sr. Member, BOR
 Mr. Arif Aziz, SP

Date of Hearing: 23.06.2014

ORDERC.M.A. NO. 282-K/2014 IN C.M.A. NO. 114-K/2014

Learned counsel for the applicant submits that this Court had taken suo moto notice of a news item dated 8.1.2013 published in Express Tribune to the effect that Mr. Bashir Memon, DIG, then posted in Karachi had been transferred on account of the statement made by him before this Court. Adds that by virtue

of the said transfer order, the services of the applicant were placed at the disposal of the Federal Government. Notwithstanding the passage of 1 & 1/2 years, he further added, applicant is without posting either in the Federal Government or in the Provincial Government.

2. The grievance being voiced by the applicant appears to be genuine. The order of this Court was passed in a certain context and its continuation is not called for. In the afore-referred circumstances, we are persuaded to recall the earlier order with the observation that the Competent Authority in the Provincial Government or in the Federal Government would be free to post the applicant at any place of the choice of the Authority. Disposed of.

C.M.A. NO. 114-K/2014 (ABDULLAH SHAH GHAZI'S SHRINE)

3. Mr. Ali Sher Jakhrani, AIG (Legal) Sindh submits that the security arrangements at the shrine of Abdullah Shah Ghazi have been beefed up and there is no complaint whatsoever in this regard. In view of this candid statement made, this CMA is disposed of as having been fructified.

LAW AND ORDER SITUATION IN KARACHI

4. AIG (Legal) has also placed on record through CMA No. 300-K/2014 the latest report of the targeted operation in Karachi. He, however, requests for a short adjournment to give further details of the accused arrested and *challaned*. Let him do so within 10 days.

REGARDING LAND ALLOTMENT / LEASES

5. Learned Advocate General, Sindh, submits that the order of this Court regarding stay of allotments, mutations,

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transfer and conversion of any state land is being complied with in letter and spirit.

6. We may at this stage clarify that this order staying the allotment / grant of long leases was meant to ensure that the land is not either leased out or allotted for reasons other than *bona fide* and to land grabbers and this would not prevent the competent authority in the Federal or Government of Sindh to allot or lease out land for a project approved by the concerned authority which is directed towards establishment of any industry or automotive plant or power generating plant or any other initiative in public interest and in accordance with law and the relevant rules. The learned Advocate General, Sindh, shall convey this order to the Chief Secretary and all the provincial secretaries to ensure that the earlier order is not misconstrued and no such project is held up on that account.

CRIMINAL ORIGINAL PETITION NO. 84/2013 IN C.M.A. NO. 1145/2013 (REGARDING SERVICE PROFILE OF MR. RAO ANWAR AHMED, SSP MALIR)

7. The issue regarding Rao Anwar Ahmed, SSP Malir cannot be taken up as his learned counsel Mr. Abid Zubairi is on general adjournment. To come up on the next date.

C.M.A. NO. 297-K/2014

8. Notice to the Senior Member, Board of Revenue. Learned Advocate General, Sindh, shall assist after seeking instructions from the provincial government.

C.M.A. NO. 3969/2013

9. Mr. Salah-ud-Din Siddiqui, Chief Executive Officer of M/s Razi Sons (Pvt) Ltd submits that the land measuring 10 acres was allotted on a long lease for the construction of automotive parts industry; that the requisite payment of Rs. 2 crore

approximately was made as required but despite a lapse of all these years possession has not been given on account of which the industry has not been established. Adds that only yesterday since the case was fixed by this Court today, the Deputy Commissioner, Malir, Kazi Jan Mohammad sent possession letter along with a site plan but there is no access to the said land.

10. Let a photo copy of the letter be placed on record as Mark 'A'. The manner in which a potential / prospective investor is being treated by the Revenue Board in Sindh is not a flattering commentary on the working of the Institution and is also a pointer as to why the industrial development in the Province is not being picked up.

11. In the afore-referred circumstances, we are persuaded to direct the Deputy Commissioner, Malir, to personally appear tomorrow i.e. 24.06.2014 along with the record. Mr. Aftab Memon, Member, Board of Revenue, present in Court, shall convey this order and he shall also be present tomorrow. To this extent the case is adjourned for tomorrow i.e. 24.06.2014.

C.M.A. NO 257-K/2014

12. It has been brought to our notice by the applicant that a huge chunk of land measuring 1446 acres was encroached upon by various people; that pursuant to the order of this Court, the said encroachment was removed and on 4.5.2013 the Deputy Commissioner, Hyderabad, submitted a report, which is to the following effect:-

"In compliance with the orders passed by the Honorable Supreme Court of Pakistan on 17.4.2013 in Suo Moto case No. 16/2011 (CMA 164-K of 2013) regarding removal of encroachment from Forest Land, Deh Shah Bukhari, Taluka Qassimabad, the encroachment has been

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removed from Forest Land on 4.5.2013. The following departments took part in this operation:

- i) Revenue Department, Hyderabad
- ii) Police Department, Hyderabad
- iii) Qassim Rangers, Hyderabad
- iv) Forest Department, Hyderabad
- v) Anti-Encroachment Force, Hyderabad
- vi) H.M.C. Hyderabad

The vacant possession of above land has been handed over to the Forest Department after removal of all structure from the above land on 4.5.2013."

13. The allegation being leveled by the applicant is that notwithstanding the afore-referred report, the area in question has again been occupied and construction has been raised. We have called Mr. Aftab Memon, Member, Board of Revenue, who was present in Court in connection with some other case. He is directed to find out the factual position and cause the appearance of Conservator Forest and Deputy Commissioner, Hyderabad, to explain the factual position. To this extent the case is adjourned for tomorrow i.e. 24.06.2014.

C.M.A. NO. 164-K/2013

14. In this CMA, serious allegations have been leveled against certain private individuals and revenue officials for having allotted valuable state land in a clandestine manner to their own kith and kin and thereby caused huge loss to the public exchequer. Through CMA No. 2034/2013 Mr. Abdul Waheed Soomro, who has been a Member of the National Assembly, has denied the allegations leveled and along with the application he has filed an affidavit.

15. In view of the serious allegations leveled, we are persuaded to refer this matter to the learned Chief Justice of the High Court of Sindh, Karachi, to depute a senior District & Sessions Judge of his own choice to inquire into the matter and

submit a report within three weeks. The case shall be listed thereafter.

CMA NO. 206-K/2014 (REGARDING RETRIEVAL OF ENCROACHED LAND)

16. We have seen the report submitted by the Board of Revenue regarding the total land retrieved from encroachers and it comes to 2864 acres, 16.2 ghuntas and 2500 sq. yards. However, the report is silent as to what is the total acreage of the encroached land in the Province of Sindh. Confronted with this, learned Member, Board of Revenue, Malik Israr Hussain in all fairness could not deny that the report submitted in this CMA is deficient in this respect. He has been directed to find out the actual position today and submit the report tomorrow i.e. 24.06.2014.

CMA NO. 2664/2013

17. Learned counsel for the applicant requests for a short adjournment to further document the petition with a view to demonstrate applicant's *bona fide* in launching / undertaking a housing scheme for which 150 acres of land was leased out to the applicant. He will do so within a week and the case be listed thereafter.

CMA NO. 487/2013

18. Through this application the grievance being made is that in Sindh, Police appointments have been made against the rules. This Court has already dealt with such issue in a judgment reported at Contempt proceedings against Chief Secretary, Sindh and others (2013 SCMR 1752). The applicant has been told to go through the judgment and if he has a grievance, he may file a fresh CMA. With this observation, this CMA is disposed of.

CMA NO. 3827/2014

19. Learned counsel appearing for Karachi Port Trust submit that the latter organization is under the administrative control of the Federal Government and there was some issue pending between the Federal Government and the Provincial Government in which the KPT was also involved. However, lately there has been an overall settlement in those issues between those Governments and all the issues are being resolved in terms of the proposed compromise. Prays that the notices sent by this Court were either premature or were uncalled for.

20. In view of the candid statement made by the learned counsel for the KPT, the notices sent to the KPT are recalled. Disposed of.

CMA NO. 340/2013 & CMA NO. 49/2013

21. CMA No. 49/2013 is an anonymous application but nevertheless the respondent against whom some allegations were leveled has filed a detailed reply vide CMA NO. 340/2013 in which not only the allegations have been controverted but it has also been averred that on most of the allegations the inquiries were conducted and the respondent was exonerated. In this view of the matter and as there is no one to dispute the averments made in the afore-mentioned CMA, CMA No. 49/2013 is disposed of as having frivolous. CMA No. 340/2013 is also disposed of.

CMA NO. 2968/2013

22. Learned counsel for the applicant submits that Nizam Akbar Ali was leased out 12 acres of land for housing purposes but it was subsequently found that it was no go area and the construction could not be carried out. Adds that in the meanwhile

pursuant to the proceedings initiated the land was cancelled notwithstanding the fact that applicant had applied for extension of grace period for initiating the construction.

23. We would not like to comment on the veracity of the submissions being made and leave it to the competent authority to decide the application for extension, if any, under the rules under intimation to the Assistant Registrar (Karachi) of this Court for information. With this observation, the notice sent to the applicant is discharged. Disposed of.

CMA NO. 179-K/2013 (APPLICATION BY MUHAMMAD ISMAIL SHAHEEDI)

24. We are not minded to give any further direction for early hearing of the suit pending before the High Court of Sindh as applicant has the remedy of filing an appropriate application before the concerned Court. Disposed of.

Sd/-Tassaduq Hussain Jillani, HCJ
Sd/-Sh. Azmat Saeed, J.
Sd/-Mushir Alam, J.

Karachi, the
23rd of June, 2014
Khurram