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SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Muhammad Ali Mazhar
Mr. Justice Syed Hasan Azhar Rizvi
Mr. Justice Aqeel Ahmed Abbasi

C.M.A. No.918-K of 2024 in CPLA No. Nil of 2024

(For seeking permission to file joint petition instead of separate petitions against the impugned judgment dated 31.05.2024 passed by High Court of Sindh, Karachi in CP Nos.D-2920/2017, D-7210/2019 and D-4305/2016)

Mst. Asma Shakeel and another ...Applicant/Petitioner (s)
Versus
Province of Sindh through Secretary
Local Government and others ...Respondent(s)

For Applicant/Petitioner(s) : Mr. Nazar Akbar, ASC
Mr. Muhammad Iqbal Chaudhry,
AOR

For the Respondent(s) : N.R.


Date of Hearing : 03.06.2025

ORDER

Muhammad Ali Mazhar, J:- CMA 918-K/2024. This is an application seeking permission to file one consolidated petition for leave to appeal against dismissal of three constitutional petitions.

Learned counsel for the Petitioner submits that in order to fulfil legal requirements, Court fee has already been paid separately for all the Petitioners, hence, for the purpose of convenience only he requests that he may be allowed to impugn the consolidated judgment in one civil petition. Application is allowed. Let the Civil Petition be registered and fixed before the Court today.

C.P No.1252-K/2024. We have heard the learned counsel for the Petitioner. So far as the impugned judgment is concerned, learned



Divisional Bench has already observed in paragraph-13 of the judgment, which is reproduced as under:-

“13. Another important aspect of the case is the Petitioners in C.P Nos. D-2920 of 2017 and D-7210 of 2019 sought the relief of the declaration of ownership. It is evident that a declaration in civil matters, as claimed under section 42 of the Specific Relief Act, can only confirm a pre-existing right and cannot establish a new right through a court decree. Similarly, exercising its Constitutional Jurisdiction outlined in Article 199, the High Court has the power to recognize a pre-existing right. However, it cannot establish a new right through a declaration issued under Article 199. Moreover, the entire scheme under Article 199 enforces constitutional rights but does not create a right, as the Petitioners seek in the present petitions. The reliance can be placed in the case of **Director Military Land And Cantonment Quetta and others V/S Aziz Ahmed and others (2023 SCMR 860)**”

It is well settled exposition of law that disputed questions of facts cannot be decided in a writ jurisdiction and if a party wants to clear his title and legal character, the right remedy is to invoke jurisdiction of civil court by filing suit for declaration and consequential relief(s) rather than filing constitutional petition under Article 199 of the Constitution.

In view of the above, we are not inclined to cause interference in the impugned judgment. However, the parties are at liberty to seek appropriate remedy in accordance with law. The Civil Petition is dismissed and leave is refused.


JUDGE


JUDGE


JUDGE