

IN THE SUPREME COURT OF PAKISTAN
 (Original Jurisdiction)

PRESENT:

**MR. JUSTICE MUSHIR ALAM
 MR. JUSTICE MAQBOOL BAQAR**

CRIMINAL MA NO. 46-K OF 2017 & Crl. O.P.11-K/2017 IN CRL. O. P 4-K/2014

(For return of deposited surety and for non-compliance of this Court order dated 14.03.2017)

Vice Chancellor Jamshoro

Petitioner(s)

VERSUS

Hyderabad Electric Supply Company *Respondent(s)*
 (HESCO)
 Abdul Qadir Javed Shar

For the Petitioner(s) Abdul Mujeeb Pirzada, Sr. ASC (in Crl. O.P. 11-K/17)

For HESCO Mr. Ansari Abdul Lateef, ASC (in Crl. MA 46-K/17)

For NTDC Mr. Khalid Javed, ASC a/w
 Ghulam Mustafa Sial, XEN

Date of hearing 20.06.2018

ORDER

MUSHIR ALAM, J.

CRIMINAL MA NO. 46-K OF 2017

This application has been made by HESCO for discharge of the surety furnished in form of guarantee as ordered by this Court dated 12.01.2017 followed by final order dated 14.03.2017. It is stated that since the matter relating to acquisition of land and erection of pylons on the land was sent to the Land Acquisition Officer for passing appropriate Award and compensation in accordance with law. According to learned counsel, such Award has since been passed and the matter is resting before the appropriate forum in terms of Section 18

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of the Land Acquisition Act and since the purpose of this Court orders referred to above has been accomplished surety may be discharged.

2. Abdul Mujeeb Pirzada, learned Sr. ASC for the University of Sindh objects to this state of affairs and states that no Award has been passed and order by the Land Acquisition Officer is flawed and in breach of the order/directions of this Court which cannot be sustained. He opposed the request.

3. Mr. Khalid Javed representing NTDC states that the order directing furnishing security is apt and whosoever succeeds may draw its benefit.

4. Having heard the learned counsels and perused the record, since the pylons are still existing and on a specific query of the Court learned counsel representing HECSCO states that they are not prepared to remove pylons to claim return and discharge of the surety, in this view of the matter, we do not deem it appropriate to order for return/discharge of the surety as the land is still being used by the HESCO and NTDC as well. Accordingly request is declined and application is dismissed. Needless to say that fate of surety will be decided with final adjudication of order dated 09.06.2017 passed by the Land Acquisition Officer, Jamshoro.

CRIMINAL ORIGINAL PETITION NO. 11-K OF 2017

5. This Criminal Original Petition pursuant to order dated 14.03.2017 whereby land acquisition matter was sent back to the Land Acquisition Officer for passing appropriate order in accordance with

law. The Land Acquisition Officer, Jamshoro vide order dated 09.06.2017 dismissed the claim of University and declined to award any compensation for want of authentic title to the land in issue, which order is *sub judice* before the learned Additional District & Sessions Judge, District Jamshoro as a LA reference No. 2/2017.

6. Learned counsel for the University submits that no Award as directed by this Court has been passed and such exercise by the Land Acquisition Officer is malafide and thus contemptuous. Learned counsel does not respond to the repeated query of the Court whether he has filed objections to the order of Land Acquisition Officer or not. It is expected that learned Additional District & Sessions Judge seized of the LA Reference No. 2/2017 decide the same preferably within a period of three months from the date of receipt of copy of this order. In case any party chooses not to file objections to the order of Land Acquisition Officer there should not be impediment in deciding the LA Reference No. 2/2017. Accordingly we do not see any merit in this Criminal Original Petition which is dismissed.


JUDGE


JUDGE

Karachi, the
20th June, 2018
Rizwan


20/6/18