

**IN THE SUPREME COURT OF PAKISTAN**

(Original Jurisdiction)

**PRESENT:**

Mr. Justice Iftikhar Muhammad Chaudhry, HCJ  
Mr. Justice Jawwad S. Khawaja  
Mr. Justice Khilji Arif Hussain  
Mr. Justice Amir Hani Muslim  
Mr. Justice Ejaz Afzal Khan

**Suo Moto Case No. 16 of 2011**

(Implementation proceedings of Judgment  
of this Court reported as PLD 2011 SC 997)

A/W

**Civil Misc. Application No.1652/2013**

(Action taken on news item dated  
23.03.2013 published in daily "The Express  
Tribune" regarding "No Go Areas" in  
Karachi)

AND

**CrI.O.Petition No.96 of 2012**

(Senator Haji Adeel v. Raja M. Abbas, etc.)

AND

**CrI.O.Petition No.29 of 2013**

(Wattan Party etc. v. Federation of Pakistan etc.)

AND

**Suo Moto Case No.14 of 2009**

(Action taken on Press Clippings dated  
05.09.2009 the Daily "The News")

AND

**Civil Petition No.506-K of 2009**

(Shaukat Hussain and another v. Muhammad Younas)

AND

**Const. Petition No.60 of 2010**

(M. Tariq Asad v. Prime Minister of Pakistan & others)

For the petitioners:      Mr. Ghulam Qadir Jatoy, AOR (in CrI.O.P.96/12)  
   Mr. Abrar Hassan, Sr. ASC with  
   Mr. A.S.K Ghor, AOR (in CP 506-K/09)  
   Nemo (in CrI.O.P 29/13 & Const.P.60/10)

Applicants: Syed Mehmood Akhtar Naqvi  
Mr. Ismail Shaheedi

For the respondents: Mr. Rasheed A. Rizvi, Sr. ASC  
Mr. K.A. Wahab, AOR  
(on behalf of Ghulam Mustafa Memon in SMC 14/09)

**On Court notice:**

For Federation: Mr. Syed Mohsin Imam DAG.

For Govt. of Sindh: Mr. Abdul Fatah Malik, AG. Sindh.  
Mr. Shahadat Awan, PG, Sindh  
Mr. Adnan Karim, AAG, Sindh  
Raja Ghulam Abbas, Chief Secretary  
Syed Hashim Raza, Commissioner Karachi  
Mr. Imran Ata Soomro, Addl. Secy. Home

For Sindh Police: Mr. Shah Khawar, ASC  
Mr. Shahid Nadeem Baloch, IGP  
Mr. Ghulam Shabbir Shaikh, Addl.IGP  
Mr. Zakir Hussain, Addl. IGP  
Mr. Zafar Abbas Bukhari, DIG, West  
Capt (R) Tahir Naveed, DIG East  
Mr. Shahid Hayyat, DIG, South  
Mr. Ali Sher Jakhrani, AIG Legal

Syed Irfan Bahadur,  
SP Anti-Encroachment Force

Mr. Najam Tareen S.P,  
Inspector Abid Ansari  
(in FIR No.23/2013 PS Kalakot)

For DG Rangers: Mr. Shahid Anwar Bajwa, ASC  
Mr. K. A. Wahab, AOR with  
Major Ashfaq Ahmed, DA JAG,

For Board of Revenue: Mr. Yawer Farooqui, ASC  
& Land Utilization Mr. Mohammad Ahmed Pirzada, ASC with  
Department Mr. Nazar Mohammad Leghari Consultant  
Syed Zulfiqar Ali Shah Member.  
Mr. Saqib Soomro Member L.U.  
Qazi Jan Muhammad D.C. Malir  
Mr. Afaq Shah Nawaz, D.C. Hyderabad  
Mr. Javed Ahmad Shar, Asstt. Commissioner  
Mr. Umar Farooq, Director Settlement

For Forest Deptt: Mr. Muhammad Wasim, Secretary

Alleged occupants: Dr. Muhammad Akram Qureshi  
(on Forest land) Mr. Fida Ali Khawaja

Date of hearing: 04.04.2013

### **ORDER**

**IFTIKHAR MUHAMMAD CHAUDHRY, CJ.**- On 22.03.2013 and 29.03.2013 this Court passed order to the following effect: -

#### Order dt.22.03.2013

(a) In the *Watan Party's case* (ibid), it has already been directed that "there must be no, 'No Go Area' at all but despite the probe made by us during hearing, heads of both the functionaries were not agreeable on the existence of 'No Go Areas' in Karachi but it has been established on record by means of credible information that No Go Areas do exist in Lyari, therefore, in pursuance of our earlier judgment, the IGP himself and if necessary the DG, Rangers shal also personally lead the operation into such areas to make Karachi free of No Go Areas and peaceful city to protect and also provide them a congenial atmosphere free from hold of the criminals so that they may live peacefully and also participate in forthcoming general elections, polling of which has been schedule to be on 11<sup>th</sup> May, 2013. They have to complete the task within a period of two weeks and report compliance shall be submitted to the Registrar for our perusal in Chambers, if in the meanwhile instant case is not listed for further hearing.

#### Order dated 29.03.2013:

"3. Therefore, we direct to the Additional Advocate General to hand over copy of this order along with story published in the Express Tribune dated 23<sup>rd</sup> March, 2013 for its onward circulation to the DG Rangers as well the Inspector General of Sindh Police. It is the duty of the Police to provide protection to the citizens and take them out of the fearful influence of the criminals in the different

pockets of the Karachi. Therefore, we direct the I.G. Police that to testify firstly the SHO, DSP and SP of each police station even DSP or SP, who are supervising more than one police station, the contents of the news items or otherwise. If they accept the same, then shall explain as to why this dismal state of affairs exists and also to disclose that why the police force is not controlling the law and order situation. The Additional Advocate General would also hand over copy of his order and appended news items to the DG, Rangers so that he may also make a categorical statement in respect of the partial or complete existence of 'no-go areas'. The learned Additional Advocate General would also remind him that earlier he had emphatically taken a stance that there is 'no-go' area in Lyari but also in other parts of the Karachi which correspond with the sketch appended above. The DG Rangers shall explain that despite availability of resources and command as to why the law and order situation is not improved not only in Lyari but also in the rest of the areas of Karachi for the last so many years. In the meanwhile, both the Agencies if desired, may take necessary steps to abolish all 'no-go' areas for which purpose we have already given two weeks' time to the concerned agencies. The learned Additional A.G. shall hand over copy of this order to the incumbent Chief Secretary Sindh."

CMA No.226-K/2013 signed by Inspector General of Police has been filed, containing certain documents including the certificates purported to have been issued in compliance of the order dated 29.03.2013. In these documents/certificates it has been certified that no "No Go Areas" exist in district Malir Karachi. All the certificates are stereotype as the same computer font and the language has been used. Reference may be made to the certificates pertaining to district East, copy of which has been placed on record.

2. It is to be noted that order dated 29.03.2013 we have passed on the basis of the report appeared in daily "The Express Tribune". Directions were also issued to Police and DG, Rangers in the orders dated 22.03.2013 and 29.3.2013, noted hereinabove.

3. With reference to both these orders a report (CMA No.228-K/2013) has been submitted by the DG, Rangers. In respect of the later order, reference of which finds mention in the report, except mentioning the **names of area, date of operation** and **details**, like at serial No.1, "**Safoora Goth, Gulshan-e-Iqbal Town**" in the column under the heading "**Area Dominate**" operation success or failure and clearing the 'No Go Areas' or about its existence, no statement has been given in this regard. The concluding para of the report is also irrelevant with reference to the 'area dominate' noted hereinabove as the contents of the same speak for itself, which reads as under: -

"It is most respectfully submitted that as per the directions of the Honourable Court, Terrorists whether belonging to TTP or banned SSP or LeJ are being kept under constant vigilance, and sustained and repeated operations are and will be conducted to eradicate this menace from Karachi. It is submitted that all such areas will cleared as soon as possible."

4. It is equally important to note that a list of persons declared "black" in JIT has also been appended wherein 71 names of the culprits involved in heinous crimes including murders etc. have been noted. Surprisingly, despite declaring them "black" in JIT (comprising of law enforcing agencies including the members of Rangers) like accused Munir Ahmed @ Anjum, Sohail Ahmed @ Kala, Muhammad Kashif @ Shakeel Burger etc. purportedly charged for murders of about 115, 47 and 6 persons respectively have been booked vide FIRs under sections 353/324/34 PPC and 13-D etc. instead of putting the challan against them under the commission of

crime of murder etc. For reference three entries are reproduced hereinbelow from the said list: -

**LIST OF PERSONS DECLARED BLACK IN JIT**

Ser	Name/Father's name	JIT Grading/ Confessions	Handed over/ Date	Progress of Prosecution
1.	Munir Ahmed @ Anjum s/o Muhammad Bakhsh	Black <ul style="list-style-type: none"><li>• 115x murders</li><li>• 5xinjured</li><li>• Forceful collection of Fitrana/Chanda/Hides</li></ul>	PS New Town 17.9.11	<ul style="list-style-type: none"><li>• FIR no 335/11, 352/11, 352/11 u/s 353/324, 13-D, PS New Town</li><li>• Challan has been submitted in 1xFIRs,</li><li>• Released on bail</li></ul>
2.	Sohail Ahmed @ Kala Munna s/o Muhammad Khalil	Black <ul style="list-style-type: none"><li>• 47xmurders</li><li>• 10xinjured</li></ul>	CID 11.9.11	<ul style="list-style-type: none"><li>• FIR No.423/11, 424/11, 429/11, 430/11, u/s 353/324/34, 13-D, 4/5 Explosive Act, CID dated 16.9.11</li><li>• Challan has been submitted in 4xFIRs</li><li>• Jail Custody</li></ul>
3.	Muhammad Kashif @ Shakeel Bugar s/o Muhammad Shafiq	Black <ul style="list-style-type: none"><li>• 6xmurders</li><li>• 1xInjured</li></ul>	CID East 16.9.11	<ul style="list-style-type: none"><li>• FIR No.423/11, 425/11, 426/11, u/s 353/324/34, 13-D, 4/5 Explosive Act, CID dated 16.9.11</li><li>• Challan has been submitted in 3xFIRs</li><li>• Jail Custody</li></ul>

There is also names of accused persons like Danyal Hussain @ Mota (at Sr. No.27), who allegedly has confessed his involvement for murder of 24 persons but despite it, he has also been booked under section 353, 324/34 PPC 13-D of the Arms Ordinance etc. We are not ready to accept the authenticity/credibility of such information passed on to the Court because if a person is involved in capital crime/offence i.e. for murder of 115 or less persons and challan has been submitted under section 353, 324/34 PPC etc. as it has been noted hereinabove, obviously, the court seized with the matter would not go beyond the record, which has been placed before it. And if he is shown involved in such a crime, which entails sentence for a period ranging between 7 to 12 years, he could conveniently make out a case for grant of bail

because in such situation following the due process of law, the court cannot deny such concession to the accused.

5. It seems that by means of placing such record an attempt has been made to give impression to the Court that law enforcing agencies, i.e. Police and the Rangers, are successfully causing the arrest of the criminals, involved in serious/heinous crimes but the Courts before whom the matter is put up, are releasing them, although they were involved in capital offences etc. The impression, in fact, has been given to shift the responsibility upon the courts instead of establishing that if such accused is involved in the commission of offence, he has to be dealt with under the law without extending any concession or showing any leniency to him. Therefore, the impression, which has been created in the minds of ordinary citizens that such accused persons are being released on bail or acquitted is absolutely incorrect as it has been explained hereinabove. However, under the circumstances, we direct the DG, Rangers that he should produce all the files of all 71 persons before us by tomorrow with FIR wherein they are involved in the commission of offence and also offering explanation made by him as well as by IGP as to why the accused were challaned under sections 353, 324/34 PPC, instead of under section 302 PPC etc.

6. We, while realizing our commitment to the Constitution, do insist upon both the agencies i.e. Rangers and the Police that as per their authority conferred upon them under the law, to deal with the criminals strictly, who are committing crimes against the society and have put the lives of citizen in danger, thereby creating atmosphere of insecurity in Karachi. We have also noted some activities on behalf of

Rangers and Police after hearing of the case have started but without any successful result because the citizens invariably claim non-protection to their life and property which has been granted under the Constitution.

7. As far as second report of D.G. Rangers in compliance of order dated 22.03.2013 is concerned, it is not specific one. As we have noted in our order dated 29.03.2013 that the information brought forward by the renowned newspaper has either to be accepted or rejected in view of the undergoing exercise, reference of which has been made in the relevant paras of the orders, reproduced hereinabove. Similarly, in our earlier order dated 22.03.2013, somehow identical directions were given but we have noted that both the agencies have failed to provide data, as required in terms of the directions. Rangers and Police have been deputed in the city to restore the law and order situation so that the crime is controlled and the life and property of the citizens is protected but when both the law enforcing agencies put up reports like the ones which have been filed today, we feel that efforts are not being made with full commitment vigorously and attempts are being made just to satisfy the Court during the period when hearing of the case of such nature commence. Therefore, under the circumstances, we hereby direct the IGP and the DG, Rangers in pursuance of earlier orders and subsequent order dated 22.03.2013 that to ensure full protection to the life and property to the citizens, they should lead operation and clear all the No Go Areas including Lyari etc. The Chief Secretary, the Government of Sindh shall be kept into picture fully, who on expiry of seven days'



period shall submit report, certifying under his signatures that there is no area under "fearful influence of criminals" in the city of Karachi.

8. Mr. Najam Tareen, SP Lyari is present and stated that after passing of the orders dated 22.03.2013 and 29.03.2013 situation has improved in Lyari. Indeed, such statement is surprising for us, which has been given by the Superintendent of Police, who instead of saying that in compliance of the directions of this Court the police as well as the Rangers had fully established the writ of the government and there is absolutely no area of fearful influence of the criminals and all the persons involved in the heinous crimes etc. have been dealt with according to the Constitution and the law, has made such statement. When we inquired from him that as to whether all culprits/accused persons involved in the crimes in all the four police stations of Lyari have been arrested, he stated that about 30% were arrested. In such view of the matter, we have directed him to file, by tomorrow, total numbers of the FIR registered in all the four police stations along with the details of the accused and whether he has succeeded to cause their arrest, if not so, what are the reasons for the same.

9. Mr. Shahid Hayat DIG Police stated that he is conducting investigation of the case of Arshad Pappu and FIR No.23/13 has also been registered on the complaint of Mst. Asma Arshad widow of Arshad Pappu and out of ten accused, three accused namely Zubari, Zakir Dada and Shahjahan Baloch as well as Yousaf Baloch, a Police Inspector have been arrested. As far as remaining accused are concerned, for their arrest, he requested for some time. Request is allowed.

10. It has been informed by Mr. Adnan Karim, Assistant Advocate General that government of Sindh has created a post of Project Director, IT (B-18) in the office of IGP, Karachi in pursuance of order dated 22.3.2003 passed by this Court. He has placed on record two letters of Government of Sindh. Learned Advocate General Sindh has confirmed that a letter for allocating budget for the said post has also been received by him.

11. This Court vide judgment in the case of Watan Pary v. Federation of Pakistan(PLD 2011 SC 997) in respect of punishment to land grabbers and encroachers, made following observations: -

“Further observe that there is a need for a fresh comprehensive law to eliminate and punish land grabbers and encroachers. This is one of Karachi's greatest problems. The Court has already dealt with some cases Suo Motu and otherwise, and will continue to do so whenever necessary or appropriate. Sometimes this Court is the last hope of the citizens or a community which turns to it for redress when all other avenues are denied to them. But overall it is the duty of both Governments to formulate such law and initiate it in the appropriate assembly; and thereafter to implement it fully without showing any favour or immunity to any person whether a political favourite, ally or for any other personal or party consideration.”

Although hearing of the implementation proceedings of the above judgment continued from time to time but it appears that the issue of encroachment of the land and their removal has not been dealt with firmly. In as much as allegedly head of the Force, meant for removing the encroachment etc. under the Sindh Public Property (Removal of Encroachment) Act, 2010 *prima facie*, failed to discharge his function despite providing police contingents as per the requirements and

instead of registering the cases under the Act, 2010, cases has been registered under Pakistan Penal Code.

12. Syed Irfan Bahadur, who is Superintendent of Police himself is party in litigation, wherein serious allegations were leveled against him by the aggrieved persons by invoking constitutional jurisdiction of the High Court or instituting suites against him but still there are so many victims, who, though succeeded in getting lodged reports, which have been registered under section 448 PPC etc. instead under the Act, 2010, yet their cases were not Challaned in the Court mainly for the reasons that for want of evidence no case is likely to be proceeded against the accused persons. On 22.03.2013 in this context we passed following order: -

"24. Mr. Shahadat Awan, learned Prosecutor General Sindh stated that from the date of promulgation of the Act, 2010, 145 FIRs were registered and put up before the Special Court, out of which 62 are pending decision whereas the remaining have been disposed of as 'A' Class or 'C' Class. We could not understand as to how such like cases can be disposed of in A or C class. The SP Encroachment Cell shall submit details of each case, which was disposed of either as 'A' or as 'C' class during investigation. He shall also submit report about the cases, which were quashed. The learned Prosecutor General may also submit the details of such cases with his comments separately as to whether any further action in this behalf has been taken or not and if the cases have failed in Court for want of sufficient evidence, he would fix responsibility on the investigation team or other concerned. He would further point out whether the properties in possession of

encroachers/land-grabbers have been retrieved or are still in their unlawful possession along with its complete details."

- "(e) The SP Encroachment Cell is directed to submit his report within 7 days as to whether the encroachments by the land-grabbers have been cleared within the Karachi area and land has been retrieved.
- (f) The Prosecutor General, Sindh is directed to submit the details of the cases, which were filed before the Tribunal or the Special Court under the Sindh Public Property (Removal of Encroachment) Act, 2010 and state the reasons for their failure of the cases by fixing responsibility upon the officers involved in these cases and action, if taken against any one of them. He would further state as to whether the properties encroached/grabbed have been retrieved or not?"

13. In response to the notice we have been informed that the Revenue Department, Government of Sindh vide notification No.104-11-3-2013 has appointed two Assistant Commissioners and Mukhtiarkars as authorized officers. Mr. Shahadat Awan, learned Prosecutor General in compliance of the order placed on record CMA No.221-K/2013. He has referred to its various parts of it including page 173 under caption **"Disciplinary Action Against 36 Following Officials/Complainants Mentioned in Letter Dated 01.04.2013, Issued By Learned Deputy District Public Prosecutor Posted At Special Court, Sindh Public Property (Removal of Encroachment) Karachi"**. At the same time, he has placed on record details of 25 cases, wherein despite registration of the cases the land has not been retrieved. Besides it, he has also drawn our attention that against 36 persons, action has been taken for not conducting the prosecution. Reference made, to some extent seems to be correct as

in one of the cases, in which Muhammad Yousaf, Mukhtiarkar is involved, in a case FIR No.04/2010. In this case investigation was conducted by Muhammad Hussain, ASI, who failed to point out any illegality in the FIR and kept the file with him for a long time. He was issued show-cause notice and finally penalty of stoppage of one years increment was imposed upon him. Perusal of the file shows so many examples of the same nature. On our query about the compliance of directions contained in para 24 above, Syed Irfan Bahadur has also placed on record CMA No.230-K/2013, which supports our observations noted hereinabove that instead of exercising power under the Act, 2010, he has registered the cases under the provision of PPC and ultimately despite of registration of the cases allegedly they failed to get retrieved the property and case was declared as "A Class" or it was quashed by the Court because no accused, involved, was available for the purpose of trial. We fail to understand that once an offence under section 448 PPC allegedly has been registered, the accused person against whom allegation is made, is bound to be identified and arrested but it seems that such devices are being used by the SP or his party to pressurize the parties for same consideration, known to them or functionaries of the Board of Revenue. It is not the only case against the Anti-Encroachment Force to remove the encroachments or restoration of the properties etc. but staff of the Board of Revenue, as reference of 36 Mukhtiarkars has been made, have joined hands reportedly with the encroachers, as a result whereof instead of creating the deterrence to the encroachers, they are committing such crimes because of the implied assurance of either of the authorized officers or the force headed by Syed Irfan Bahadur, SP to provide

protection as a result thereof in a good number of cases either FIR is cancelled or Superior Courts quash the FIRs. CMAs No.204-K/2013 and 205-K/2013 have also been filed by Syed Irfan Bahadur before filing of CMA NO.230-K/2013. In such view of the matter, we direct Syed Irfan Bahadur SP to place on record for our perusal detail of the cases pending against him before the Civil Court or High Court by tomorrow for our perusal and passing orders if need be. If there is any case pending before the High Court, the Registrar of this Court shall inform the Registrar of the said High Court that the matters pertaining to the encroachment, are required to be disposed of expeditiously in view of the observations made hereinabove.

14. Syed Mehmood Akhtar Naqvi stated that there are so many serious allegations against Irfan Bahadur, SP as according to him few days before he had assisted to one of the encroachers/land grabbers in taking over the property of about 15 acres in the area of Qayyum Abad, Korangi and one Maqsood SP of Sindh Police, on having information about this fact had approached to the victims, recorded their statements and took photographs, which fully establish about the allegations against Irfan Bahadur. In such view of the matter, we direct the learned Deputy Attorney General, present in Court that he should accompany to Mehmood Akhtar Naqvi and Irfan Bahadur as well as SP Maqsood, visit the place of incident today in the evening and put up report by tomorrow.

15. We have asked Syed Irfan Bahadur being a police officer of the rank of SP that he should not involve in such like activities because once the allegations are *prima facie* established then machinery of law

will come into motion and he has to be dealt accordingly and if such exercise is undertaken, likelihood of taking strict action against him by this Court or the department cannot be ruled out.

16. Mr. Nazar Muhammad Leghari, Consultant BOR has also informed that despite direction of this Court Government of Sindh has not appointed so far the Presiding Officer of the Tribunal under the Act, 2010. In this context Mr. Shahadat Awan, learned Prosecutor General stated that he has placed on record letters/correspondence in CMA 221-K/2013. It seems that despite of the order, except sending a letter to the Registrar of High Court on 28.03.2013 no step so far has been taken in this behalf. Learned Advocate General as well as the Registrar of the High Court of Sindh may bring this issue in the notice of learned Chief Justice enabling him to recommend the persons having the qualification according to law for the purpose of appointment and on receipt of such recommendation, the notification of the Presiding Officer of the Tribunal shall be issued within three days.

17. Mr. Muhammad Ahmed Pirzada, ASC appeared on behalf of Board of Revenue and in response to our earlier order dated 22.03.2013, filed CMA No.220-K/2013 and stated that he has collected information about pendency of a Writ Petition before the High Court in No.D-1608/2 wherein after hearing the arguments judgment is reserved which is likely to be announced at any time. It would be in the interest of justice, the learned High Court may announce the judgment as early as possible. A copy of the judgment be sent to the Registrar of this Court for our perusal in Chamber. Mr. Ismail

Shaheedi is present and stated that his suit being No.762/1995 is still pending for adjudication from 1995 and is not being allowed to be proceeded and is adjourned for one or the other reason. It would be in the interest of justice if the learned High Court may take up this matter as early as could be possible and decide the same expeditiously preferably within a period of two months from the receipt of order.

18. Mr. Nazar Muhammad Leghari requests for time to file reply of CMA No.164-K/2013. In this CMA serious question about the alleged misappropriation of the Government revenue, etc. has been raised. The allegation in respect of the irregularity and illegality in the Police Department, Revenue Department and the Treasury / Finance in respect of the payment of the revenue dues has been highlighted. However, it would not be possible to file its reply by the Board of Revenue, therefore, we direct that the reply should also be filed by the Inspector General Police, Finance Secretary and Sr. Member, Board of Revenue with reference to each item stated therein. At this stage Mr. Nazar Muhammad Leghari has stated that as far as portion of the application relating to non-depositing of the fee or prices of the land through challan is concerned, same has already been filed through CMA No.218-K/13. Let the authority noted the above also file the reply thereto thereafter we will take up CMA No.218-K/13 and pass order if need be.

In respect of the reconstruction of the revenue record, which has allegedly been burnt, CMA No.208-K/13 has been filed. On our query it is informed by Mr. Nazar Muhammad Leghari that the complete



reconstruction had not taken place, except some portion in respect of only 83 *Dehs*, which, according to him, are situated in Taluka Kotri, Qambar, Miru Khan, Warah, Shahdadkot and Qabu Saeed Khan. However, he stated that the record of Thana Bula Khan has also been completed. When it was inquired from Mr. Jawed Shar, Assistant Commissioner, he stated that record of this Taluka has been completed and the record of 23 *Dehs* has been handed over to Board of Revenue, where Muhammad Qasim Lashari, Member (Judicial), Board of Revenue, is undertaking exercise to review the whole record of Thana Bula Khan and Thatta District.

Be that as it may, on the next date of hearing Senior Member, Board of Revenue shall put up a complete report in this behalf.

19. CMA No.208-K/2013 along with appendix on behalf of the Board of Revenue has been filed, indicating that the claims of the burnt record, except *Deh* 83 has been finalized, which shall be examined in the meanwhile.

20. In pursuance of contentions raised in CMA.No.183-K/2013, following directions were issued in the order dated 22.03.2012:-

- (j) Notice of CMA. No.183-K/2013 be issued to the Senior Member Board of Revenue, Member Land Utilization as well as the Secretary Forest.
- (k) The District & Sessions Judge Hyderabad is directed to appoint a judicial officer not below the rank of Senior Civil Judge along with President District Bar Association Hyderabad to visit Deh Shah Bukhari, Taluka Qasimabad

and prepare a report indicating as to whether on the land, which is meant for reserved forest, who is in the possession and whether any construction work is going on, on the said land.

21. Mr. Mohammad Wasim, Secretary Forest has filed CMA No.215-K/2013 and stated that the status of 1446-24 acres of Deh Shah Bukhari has wrongly been de-notified by the Land Utilization Officer vide letter dated 22.01.2012, therefore, the same deserves to be cancelled/ de-notified. The Secretary and Member Land Revenue placed on record letter dated 03.04.2013 and stated that earlier order dated 23.01.2012 regarding de-notifying forest land admeasuring 1446-24 acres of Taluka Qasimabad in favour of Government of Sindh Land Utilization Department has been withdrawn/cancelled. In addition to the above stand taken by Member Land Utilization, Board of Revenue and the Secretary Forest, a Commission appointed by this Court as it is noted hereinabove has also submitted report being No.CMA 206-K/2013. Concluding Paras of the report signed by President Hyderabad District Bar Association and Senior Civil Judge, are reproduced herein below: -

"In view of our inspection of the site, we have found that: -

1. In Part-1 of the Forest Reserved land a Builder, namely, Fida Ali Khawaja, is in possession of about 20 to 30 acres of Forest Reserved Land, who has illegally announced a Housing Scheme in the name of "Indus River View City". There are villages, houses and shops of villagers in Forest Reserved land, who claim to be in possession of the land since their forefathers. However, they do not have any title documents of the land in support of their claim.

2. The Part-2 of the land is mostly barren and un-cultivated land. Only about 150 acres is developed land and from the Dhal Receipts (Revenue Tax Receipts), it appears that the cultivating part of the land admeasuring 90 Acres is in possession of only one person, namely, Kashif Ali Shoro s/o Deedar Hussain Shoro, who had paid the Revenue Tax for the Kharif Season 2012-13. There is only one pacca house in the said land and the concerned Supervising Tapedar told the names of occupants of the said house as Urs Shoro and Khadim Shoro.

22. Member Land Utilization Department in compliance of the above order has filed a compliance report (CMA. No.217-K/2013), concluding Para reads as under: -

“As per report of Deputy Commissioner Hyderabad where he has stated that there are two villages Goth Saleh Mohammad Shoro and Goth Khamiso Mallah and houses of Khadim Shoro & Urs Shoro consisting on 4 & 5 rooms with compound wall is existing there in N.C.No.215. An area about 85-00 to 90-00 acres of the Forest land was cultivated by the grantees in the Kharif Season 2012-13 and they have also paid local fund and abiana, while the remaining area of the land is barren.

23. Before finally disposing of this matter, Mr. Fida Ali Khawaja and Dr. Akram Qureshi appeared and claimed that they and their family members have purchased this properties in the year 1979 from one Major Hanif and Abid Khanzada in the names of their family members, which also finds mentioned in the report of Land Utilization Department, therefore, they stated that to the extent of their property, neither the Forest Department nor Board of Revenue could raise any claim. Although no application has been filed nor any document has been placed on record, except on our query, a

photocopy of Form-VII has been placed on record. We feel that no prejudice should be caused on account of instant proceedings to them and the same parties cannot be pushed to further litigation particularly when according to the report submitted by Senior Civil Judge, the President High Court Bar Association as well as the Member Land Utilization Department, who have visited the site in company of the Deputy Commissioner stated that a Housing Scheme is being constructed on a portion of land in respect whereof claim has been raised by them. Therefore, to resolve the controversy a simple and possible solution is that the property should be demarcated separating, if any, piece of land owned by Fida Ali Khawaja, Dr. Akram Qureshi and their family members. At this stage, it would also not be out of context to note that according to the Report of Assistant Commissioner Qasimabad this land has been demarcated with the technical assistance of Survey Staff of Director Settlement Survey and Land Record Sindh Hyderabad and the Tapedar of Beat, which shows that the area under encroachment is 33-00 acres out of 88-09 acres of NA-Class-115 and on which they have also constructed a site office main gate at the front of the scheme and also constructed Katcha/Pacca roads. Goth Ghulam Rasool is also existing there and rest of the land is lying vacant, but it seems that this technical assistance by the Survey Staff has not taken place in presence of claimants Fida Ali Khawaja and Dr. Akram Qureshi, therefore, in all fairness we provide another opportunity to the Forest Department, Board of Revenue as well as to both of them that they should conduct a joint survey in their presence. The survey of the land shall be carried out subject to verifying their title documents. Demarcation of the

property shall be carried out by the Member Land Utilization Department, Director Lands, Deputy Commissioner along with Mr. Zulfiqar Shah Member Board of Revenue (Record & Survey) and any representative of Fida Ali Khawaja and Dr. Akram Qureshi in presence of the Senior Civil Judge, Hyderabad to whom directions shall be issued by the District & Sessions Judge, Hyderabad to ensure that no injustice is caused to anyone. This report must be prepared within a period of 10 days. Copy of the same shall be sent to the Register for our perusal in Chambers.

As the Court time is over, the further proceedings will be taken up tomorrow i.e. 05.04.2013.

Chief Justice

Judge

Judge

Judge

Judge

Islamabad, the  
4<sup>th</sup> April, 2013  
*Nisar/\**