

IN THE SUPREME COURT OF PAKISTAN
(ORIGINAL JURISDICTION)

PRESENT:

MR. JUSTICE TASSADUQ HUSSAIN JILLANI, HCJ
MR. JUSTICE SARMAD JALAL OSMANY
MR. JUSTICE AMIR HANI MUSLIM
MR. JUSTICE GULZAR AHMED
MR. JUSTICE MUSHIR ALAM

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

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

In Attendance:

Mr. Aslam Butt, DAG
(On Court Notice)

Mr. Abdul Fateh Malik, A.G. Sindh
Mr. Sher Muhammad K. Sheikh, P.G.
Sindh
Mr. Adnan Karim, Addl. AG Sindh
(For Government of Sindh)

Mr. Iqbal Mehmood, Acting I.G. Sindh
Mr. Shahid Hayat, Addl. I.G. Sindh
Mr. Ali Sher Jakhrani, AIG Legal
(For Police)

Mr. Arif Aziz, S.P.
(For Anti Encroachment Force)

Mr. Yawar Ali, ASC
Mr. Ahmed Pirzada, ASC
Mr. Mazher Ali B. Chohan, AOR
(For BOR)

Mr. Ghulam Qadir Lodhi, Air Commodore
(For Pakistan Air Force)

Raja Muhammad Iqbal, ASC
Mr. Masood Siraj, ASC
Mr. Iftikhar Ahmed
(For Custom Department)

Mr. Mushtaq Memon, Sr. ASC
(For DHA)

Mr. Muhammad Arif Khan, ASC
(In CMA 444-K/2013)

Mr. K.A. Wahab, AOR
Mr. Mushtaq Memon, AOR
Mr. Nazar Hussain, ASC
(In CMA 487-K/2013)

Mr. Mateen, Director NADRA
Ch. Farooq, Addl. Director NADRA
Rao Fayyaz Ahmed, NADRA

Major Shehzad Saleem, D.G. Pakistan
Coast Guard
Mr. Ramesh Lal Lund, Manager Survey,
Port Qasim Authority
Lt. Comdr Muhammad Afzal, Director
Legal, Pakistan Maritime Security

Mr. Zia ul Haq Makhdoom, ASC
(In CMAs 460, 462, 3019, 3220/2013)

Sana Minhas, in person
(In CMA 461/2013)

Barrister Farogh Naseem, ASC
(In CMA)

Mr. Arshad Ali Tayab, ASC
(In CMA)

Date of Hearing: 26.02.2014

ORDER

C.R.P. NO. 2-K/2014 IN CMA NO. 589-K/2013 IN S.M.C. NO. 16/2011

Through this petition, petitioner has sought clarification of the order dated 28.11.2013 passed in CMA No. 589-K/2013 in SMC No. 16/2011 vide which this Court relaying on an earlier order in the afore-mentioned suo moto case dated 28.11.2011 directed as follows:-

"For convenience, the relevant paragraph of the above said order is reproduced hereunder:-

"..... we hereby until further orders restrain the Government/Revenue Department from mutation, allotment, transfer and or conversion of any state land and or keeping any transaction or entry in the record of rights in this regard in revenue record of Sindh or till the entire revenue record in Sindh is reconstructed. The conversion of lease for 30 years or of any term upto 99 years shall also be stopped immediately as by this mode the state land is being sold out at the throwaway price without participation of public at large, which the law does not permit. Any further conversion or mutation of state land in the record of rights from today onwards would be deemed nullity and would expose the Deputy Commissioner/DCO of the relevant districts/dehs besides others to contempt proceedings."

However, it is expedient to clarify that as far as the above restraint order is concerned, it shall be applicable only to the extent of the State land only. As far as the private property which is required for the purposes of utilization by the State itself etc is concerned the revenue authorities shall be free to enter the transaction/mutation etc in the record of rights as usual. However, for further clarification he would approach the department for passing the appropriate orders. CMA stands disposed of."

2. Learned counsel for the petitioner submits that 10 acres of land from NC No. 34 Deh Mandro, Karachi was given on 99 years lease to Inter Services Intelligence for residential purposes at 50% of the market price and that notwithstanding the approval of the Chief Minister Sindh, the matter is held up on account of the stay order granted by this Court.

3. Learned Advocate General Sindh, who was present in Court in connection with some other case was given notice and on Court query he submitted that since he had no prior notice of this matter he would like to seek instructions and also examine the policy framed by the Government of Punjab for disposal of state land. Adds that he would file a concise statement within a period of 15 days. Let him do so and the case shall be listed after the submission of the report. To this extent the case shall be fixed at Islamabad.

REGARDING LAND GRABBING

4. Learned Advocate General Sindh is directed to file a reply to the following Court queries after seeking instructions from the Chief Minister Sindh and the concerned Member, Board of Revenue:-

- i) how much land has been retrieved after the promulgation of the Sindh Public Property (Removal of Encroachment) Act, 2010?
- ii) what actions have been taken so far against those who encroached the state land?
- iii) how many FIRs have been registered for the last two years and what is the fate of those FIRs?

- iv) has the Tribunal been constituted and how many cases have been filed by the Anti Encroachment Force in the Tribunal? and
- v) how many show cause notices have so far been issued in terms of Section 3 of the Sindh Public Property (Removal of Encroachment) Act, 2010?

5. The learned Law Officer shall submit the report within two weeks and the case shall be listed thereafter.

CRIMINAL ORIGINAL PETITION NO. 84/2013 IN CMA NO. 1145/2013

6. Mr. Iqbal Mehmood, Additional I.G. CID who is looking after the charge of I.G. Sindh submits that pursuant to the order of this Court dated 6.3.2013 an inquiry was conducted against the officers by an Inquiry Committee comprising of three officers headed by the then Commissioner Karachi who after recording their statements exonerated the officers and the SSP Mr. Anwar Ahmed Khan was again posted as SSP Maleer. On Court query as to since how long has the said officer been posted at the said post, he submitted that he is not sure.

7. Let the Home Secretary, Government of Sindh file a concise statement as to since when the said officer is posted as SSP Maleer? The report shall also carry a note on his service profile. The report shall be submitted within a week.

REGARDING APPOINTMENT OF COMMISSION FOR ENSURING RECOVERY OF THE CUSTOM DUTIES/TAXES

8. Learned Deputy Attorney General submits that in terms of this Court's order dated 29.11.2013 the Federal Government has done the needful and the Chairman Federal

Board of Revenue has provided a list of six officers out of which this Court may appoint a Commission.

9. We appreciate the interest taken by the Chairman, Federal Board of Revenue in providing names. However, we in the first instance would like to trust the Board of Revenue to carry out its functions more vigilantly and effectively so that no one is allowed to evade customs duties and taxes. We for the present keep the issue of appointing a Commission pending and if need be an order would be passed but that would be only if we find any laxity on the part of the Board of Revenue.

REGARDING LAW AND ORDER SITUATION IN KARACHI

10. Mr. Shahid Hayat, Addl. I.G. Sindh & Mr. Ali Sher Jakhrani, AIG Legal request for a short adjournment to file a report in office regarding law and order situation in Karachi. Allowed.

CMA No. 917-k/2013

11. We have called learned Deputy Attorney General. He will get in touch with the Rangers and find out the factual position and appear in Court on the next date.

CHIEF JUSTICE

JUDGE (HJ-7)

JUDGE (HJ-8)

JUDGE (HJ-11)

JUDGE (HJ-15)

Karachi, the
26th of February, 2014
Not Approved For Reporting
Khurram