

JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No.3671/2018

Muhammad Siddique & another

versus

FOP through Secretary Ministry of Interior, Islamabad & 4 others

Petitioners by: Mr. Ahmad Shahzad Awan, Advocate.

Respondents By: Mr. Naseem Ahmad Shah, Advocate for
Respondents.
Barrister Muhammad Mumtaz Ali, AAG.

Date of Decision: 17.08.2020.

JUDGMENT

MOHSIN AKHTAR KAYANI, J:- Through this writ petition the petitioners have prayed for issuance of direction for removal of survey marks placed by Secretary Forestry, Environment, Wildlife, Government of KPK (Respondent No.2) in territorial jurisdiction of Islamabad on the land owned by the petitioners, measuring 120 Kanals in revenue estate of Mouza Kokina, Islamabad.

2. Brief facts referred in the instant writ petition are that the petitioners are owners in possession of land measuring 120 Kanals, situated in Khewat No.35, Khatooni No.167, Khasra No.843, revenue estate of Mouza Kokina, Tehsil and District, Islamabad. The said land of the petitioners stretches up to boundary of District Haripur, KPK, therefore, the staff of respondent No.2 placed boundary marks inside the land owned by the petitioners. The petitioners approached the respondents authorities but to no avail. Hence, the captioned writ petition.

3. Learned counsel for petitioners contends that the fundamental rights of the petitioners have been infringed by the respondents authorities as enshrined in the Constitution of the Islamic Republic of Pakistan, 1973; that the petitioners are lawful owners in possession of the land in question and respondents have no

right to interfere with the peaceful possession of the petitioners; that the land owned by the petitioners is enriched with trees valuing millions of rupees, which the respondent No.2 wants to usurp illegally; that the petitioners are being deprived of their valuable property without any process of law, which is totally illegal and not maintainable in the eyes of law, therefore, directions may kindly be issued to the respondents authorities to remove the boundary marks placed on the land of the petitioners.

4. Conversely, learned AAG as well as learned counsel for respondents together with representative of Respondents No.2 & 3 opposed the filing of instant writ petition on the grounds that the instant writ petition is not maintainable for want of territorial jurisdiction as the land in question falls within the limits of District Haripur (KPK), and as such, this Court has no jurisdiction to entertain the present petition, because the matter pertains to demarcation of land, which is the mandate of revenue authorities; that the demarcation was done by the British Government back in the year 1905 and the boundary pillars constructed then are still intact without any modification or changes at the hands of Respondent No.2, therefore, the instant writ petition may kindly be dismissed.

5. Arguments heard, record perused.

6. Perusal of record reveals that the petitioner is mainly aggrieved with the actions of respondent No.2 in placing boundary marks on the petitioners' land falling in territorial jurisdiction of Mouza Kokina, Tehsil and District, Islamabad, as such, the petitioners have raised a boundary dispute between two different territories i.e. KPK and Islamabad Capital Territory. Notices were issued to respondents, whereby Malik Akhtar Hussain, AAG, KPK put appearance and contends that he has no objection on demarcation of the property subject to condition that same would be conducted through two parties i.e. Senior Member Board of Revenue (SMBR), Surveyor General of Pakistan and Collector

Islamabad or their nominated officials. The stance rendered by the learned AAG, KPK has been agreed by the learned counsel for Chief Commissioner, Islamabad as well as by the petitioners.

7. In view of above position, the SMBR, Peshawar, KPK as well as Chief Commissioner, Islamabad Capital Territory, Islamabad and Surveyor General of Pakistan are directed to nominate their representatives for a joint survey and demarcation of the petitioners' land as well as setting up of the boundary limits to resolve the controversy, as such, the said representatives shall further probe into the matter to decide the issue as to whether the land claimed by the petitioners falls within the territorial jurisdiction of District Haripur or Islamabad Capital Territory, within the period of two months, under intimation to this. It is expected from the concerned representatives that after demarcation of the land in question, survey marks should be fixed at the place for declaration of territorial jurisdiction in that particular area for determining the limits of KPK as well as of the Islamabad Capital Territory.

8. Instant writ petition stands **DISPOSED OF** in above terms.

(MOHSIN AKHTAR KAYANI)
JUDGE

Khalid Z.