

ORDER SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Review Application No.19/2019.

Syed Aftab Shah

Versus

Ch. Asghar Ali etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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17.09.2019	Ch. Haseeb Muhammad, Advocate for the applicant. Mr. Arif Chaudhry, Advocate for respondent No.1.
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Through this review application, the applicant has prayed for review of judgment dated 26.04.2019, passed by this Court in writ petitions No.2336 (*Ch. Asghar Ali vs. ASJ/Ex-Officio Justice of Peace etc*) & 2311/2018 (*Ch. Asghar Ali vs. Additional Sessions Judge West Islamabad etc*).

2. Learned counsel for the applicant contends that this Court allowed the writ petitions filed by Ch. Asghar Ali/respondent No.1 and passed direction for restoration of possession in favour of respondent No.3 U/S 145, Cr.P.C, however, the Executive Magistrate/AC (Rural), Islamabad while implementing the said direction handed over possession of the suit plot to Ch. Asghar Ali/respondent No.1 under the garb of order of this Court; that Executive Magistrate has mis-interpreted the order and he should not dispossess the applicant from his lawfully owned property; that the applicant has raised the construction over the property since 2014, even electricity meter was installed in the boundary wall, which have not been considered by the Executive Magistrate.

3. Conversely, learned counsel for the respondent No.1 put appearance and contends that consolidated order dated 26.04.2019 passed in the writ petitions has been assailed before the Apex Court by Sajjad Ghani/respondent No.4 but the same

has not yet been fixed; that the property in question is compact piece of land, which belongs to respondent No.1/Ch. Asghar Ali, the possession of which has been handed over to him in terms of section 145 Cr.P.C and all other questions relating to entitlement on the basis of title are subject matter of the civil suit, which cannot be adjudicated by this Court at this stage.

4. I have heard the arguments and gone through the record.

5. Perusal of the record reveals that this Court passed consolidated judgment in writ petitions No.2336/2018 & 2311/2018 on 26.04.2019, whereby order dated 03.05.2018, passed by Executive Magistrate/AC (Rural) and order dated 31.05.2018 passed by Additional Sessions Judge-V (West) Islamabad were assailed and both the forums below de-sealed the premises in dispute and handed over possession of the same to Sajjad Ghani/respondent No.4. While passing judgment dated 26.04.2019, this Court directed the Executive Magistrate/AC (Rural) to take over the possession of the suit plot from Sajjad Ghani/respondent No.4 and to hand over the same to Ch.Asghar Ali/respondent No.1, however, as per prayer made by the applicant in the instant Review Application, the Assistant Commissioner while handing over the possession of the disputed property dispossessed the applicant. In order to resolve the issue this Court has passed the direction to the Assistant Commissioner as well as to the Revenue Officials vide order dated 24.05.2019 to inspect the site in presence of officials of revenue department and to demarcate the entire property within the compound and submit detailed report before this Court. In compliance of the said order, demarcation was carried out, even photographs were taken and after recording statement of the parties concerned, report dated 13.06.2019 was filed, which is available on record but demarcation was not carried out regarding disputed land,

which is claimed by the applicant. Therefore, the order dated 24.05.2019 passed by this Court was not adhered to in accordance with the direction.

6. Beside this issue, the detailed version qua the possession was already discussed at length in consolidated judgment dated 22.04.2019, which is presently pending adjudication before Apex Court. The concept of review is applicable in those cases where any mistake has surfaced on record in any order or judgment, however, in this case, the applicant has alleged specific illegality on part of Executive Magistrate, who has restored possession in favour of Ch. Asghar Ali/respondent No.1 beyond his entitlement as such objection raised by the applicant is not related to judgment dated 26.04.2019, therefore, no case of review is made out. If at all wrong possession was handed over by the Executive Magistrate, the applicant may avail appropriate remedy under the law, if so, advised. Any order passed by this Court at this stage would amount to interfere into the final judgment.

7. It is pertinent to mention here that the applicant was not party in previous round of proceeding before any forum i.e. Executive Magistrate/AC (Rural), Additional Sessions Judge as well as before this Court and after passing of the final judgment dated 26.04.2019, the applicant has filed instant review application with the plea that his land has been handed over to Ch.Asghar Ali/respondent No.1 under the garb of order dated 14.04.2019, whereas under the law, those parties can file review application, which are party in the original proceedings.

8. For the foregoing discussion, instant review application is dismissed being devoid of merits.

(MOHSIN AKHTAR KAYANI)
JUDGE