

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Mr. Justice Qazi Faez Isa, CJ
Mr. Justice Amin-ud-Din Khan
Mr. Justice Athar Minallah

Human Right Case No. 8157-P of 2023

[Application in respect of Property Dispute]

In Attendance:

For the Applicant:	Mr. Hafeez-ur-Rehman Ch., ASC. Mr. Shaheryar Tariq, ASC. a/w Mr. Moez Ahmed Khan, Applicant.
On Court's Call:	Ch. Aamir Rehman, Addl. Attorney-General for Pakistan.
Date of Hearing:	08.11.2023.

ORDER

Qazi Faez Isa, CJ. This is an application filed under Article 184(3) of the Constitution of the Islamic Republic of Pakistan (**'the Constitution'**) by Mr. Moez Ahmed Khan (**'the applicant'**) and it levels serious allegations against the respondents.

2. The applicant has alleged that Lt. General Faiz Hameed, who was then serving in the Armed Forces and working with the Inter Services Intelligence (**'ISI'**) misused his office, and on his directions crimes were committed against the applicant and his family, as under:

- (1) Personnel of ISI and Pakistan Rangers (Punjab) raided the applicant's residence and business offices;
- (2) Detained the applicant and his family members;
- (3) Robbed the applicant and his family members of their properties;
- (4) Robbed the applicant of his business properties;
- (5) Compelled the applicant to transfer his business – *Dynast Associate/Top City Housing Scheme* – into his nominees names;
- (6) Had false cases registered against the applicant, his family and employees; and

(7) He and those under his command and Pakistan Rangers (Punjab) abused the powers of their offices while serving in the Armed Forces.

3. The respondent No. 1 is the '*Federation of Pakistan through Secretary Defence*', respondents No. 2 to 4 are named officers of the Armed Forces, and they and respondent No. 5 were, at the relevant time, working in the ISI and respondent No. 6 are '*100 unknown persons*'.

4. We enquired from the learned counsel how Article 184(3) of the Constitution could be invoked in respect of a private complaint/grievance, how the application could be categorized as a matter of *public importance* and enforcement of which *Fundamental Rights* was sought. The learned Mr. Hafeez-ur-Rehman Ch. stated that the respondents No. 2 to 5 had violated the Fundamental Rights of the applicant when they used their important positions. He further states that no authority would entertain a complaint/grievance, let alone proceed against them.

5. The learned Additional Attorney-General for Pakistan ('**AAG**') was called upon to assist the Court and was enquired whether the applicant has any other adequate alternate remedy, and whether his apprehension that his complaint/grievance would not be heard is correct. The learned AAG stated that there are a number of remedies available to the applicant, including approaching the Ministry of Defence as the complaint/grievance pertains to a period when the said respondents were serving officers in the Armed Forces and/or to file a criminal case, including one for malicious prosecution, and/or to file a suit for damages, or to do all these. The learned AAG also stated that if a complaint is addressed to the Ministry of Defence of the Government of Pakistan it will be given due consideration.

6. The allegations are of an extremely serious nature, and if true, undoubtedly would undermine the reputation of the Federal Government, the Armed Forces, ISI and Pakistan Rangers, therefore, they cannot be left unattended. However, the nature of a case filed under Article 184(3) of the Constitution is different from other cases, for a number of reasons. Firstly, the Supreme Court under Article 184(3) of the Constitution exercises *original power*, and whenever *original power* is exercised it must be done cautiously. Secondly, where there exists other forum(s) to attend to the same it is best that they first do so. Thirdly, against the decision of a High

Court appeals may come before this Court under Article 185 of the Constitution. Fourthly, direct intervention by this Court under Article 184(3) of the Constitution may adversely affect the rights of others.

7. However, the applicant apprehends that his complaint/grievance would not be entertained by the Ministry of Defence, because the said respondents had held senior positions in the Armed Forces. However, the learned AAG has assured us that the complaint/grievance will be given due consideration, and we have no reason to doubt this statement made on behalf of the Government of Pakistan, therefore, the apprehension of the applicant is misplaced. Accordingly, if the applicant submits a complaint/grievance to the Ministry of Defence of the Government of Pakistan, it shall be dealt with in accordance with law.

8. The applicant will also be at liberty to avail of the abovementioned, and any other legal remedies, in accordance with law.

9. This application is disposed of in the abovementioned terms.

Chief Justice

Judge

Judge

Islamabad:
08.11.2023
(M. Tauseef)

Approved for Reporting