



DECISION

Complaint No. : POS/741/ROK-24/(Khp)/2023

Name and address of the complainant : Mr. Muhammad Yousuf,
S/o Photo Khan Maitlo, R/o Village Allah Warayo Maitlo,
Deh /U.C Khanpur, District Khairpur.

Name of the Agency Complained against : Irrigation Department

Name & Designation of Investigating Officer : Ahmed Bux Ghumro, Consultant / Incharge,
Regional Office, Khairpur.

Vetted by : Mr. Ghulam Sarwar, Advisor-J

Subject : **DELAY IN PAYMENT OF COMPENSATION ON ACCOUNT OF
LAND UTILIZED FOR EXCAVATION OF CANAL.**

THE COMPLAINT

Mr. Muhammad Yousuf filed a complaint on 26-01-2023 alleging that Irrigation Authorities utilized piece of their agricultural land out of Survey No.1400 Deh Khanpur, Taluka & District Khairpur for construction of Link Channel Ex-Faiz Wah Branch RD-45. He alleges that no compensation of his land utilized for the project has been paid to him despite various requests and visits to Irrigation Offices since 2009. He, therefore, solicited intervention of this Institution.

PROCEEDINGS

2. The complaint was admitted u/s 10 of the Establishment of the Office of Ombudsman for the Province of Sindh Act, 1991 (amended up to date), subject to submission of Affidavit on Form "A", copy of CNIC, copies of relevant documents and by condoning delay.

3. After completion of codal formalities, the matter was taken up with Executive Engineer, Irrigation West Division, Khairpur, on 13-02-2023 for comments / report. Agency failed to submit report. The matter was fixed for hearing on 25-05-2023 when Canal Assistant attended and complainant was also present. The Canal Assistant in his statement submitted that they need record of S.No.1400, Deh Khanpur & that Survey Superintendent, Khairpur may be called for the same. The Agency avoided to submit report whether land acquisition proceedings were got invoked or not on the pretext that **"matter is old pertaining to year 2008-09 and the scheme stands physically & financially completed in the year 2010-11 verbally as well as in writing."**

3. The Mukhtiarkar, Taluka Khairpur vide report dated 23.11.2023 informed that according to entry No.209 dated 07.10.2009, the land S.No.1400/03-08 of Deh Khanpur was entered in the name of complainant's father Photo Khan s/o Muhammad Ilyas Maitlo, the Sale Certificate of whole property has been issued. That on spot Photo Khan was possession holder.

4. This Secretariat also sent a letter dated 11-12-2023 to Executive Engineer, Irrigation West Division, Khairpur, wherein he was asked to submit specific report / comments in the matter along with PC-I

5. The original PC-I was produced on 13-02-2024 by XEN, Irrigation West Division, Khairpur but the same was returned to XEN office. After perusal of PC-I the total land comprising of 30-0 acres was supposed to be utilized for which compensation of Rs. 7.5 million was estimated while Rs.0.9 million were estimated as crop compensation of the said area but none of the Khatedars was paid compensation. Apparently, the said amount has been misappropriated, resultantly all affected Khatedars have been running since 2009.

FINDINGS

I have examined the case and find that: -

- a) The core issue of the complaint involves claiming compensation for unauthorized use of the land of the complainant by the Irrigation Department for public purpose in 2009-10.
- b) The Agency apparently has mis-utilized Rs. 7.5 million funds, allocated for compensation to affected land owners, including another allocation of 0.9 million for estimated damages of crops;
- c) The brother of the complainant namely Sadoro S/o Photo Khan has entered into an agreement with his father on 02.01.2018 through a registered sale deed of the same land;
- d) On the other hand, the land still appears in the name of Photo Khan, the father of complainant, in the record of rights, as revealed in the report dated 27.11.2023 filed by the Mukhtiarkar Khairpur;
- e) How a buyer could lodge a complaint for compensation of land, which was utilized by Government a decade ago, when he was not the owner of the land;
- f) The Land Acquisition Act, 1894 provides a complete frame work / step by step mechanism for dealing with disputes relating to acquisition of land for public purpose;
- g) The Act, 1894, being a special law takes precedence over general law when there is a conflict. It is settled law that in this situation the general forums including the courts have to show restraint unless, the available remedy under the Act 1894 was not exhausted.

DECISION

In view of the above and in exercise of powers vested in me under Section-11 of Establishment of the Office of the Ombudsman for the Province of Sindh Act, 1991 (amended upto-date), the matter is a complex civil dispute, simultaneously the title of land is also not clear, for which the complainant should approach the Agency under the provisions of Land Acquisition Act, 1894, after establishing his ownership on the utilized land.

Given under my hand and seal of office.



Sd /-
(MUHAMMAD SOHAIL RAJPUT)
Sitara-e-Imtiaz: PAS
Ombudsman, Sindh
Karachi, dated: 5th June, 2025