

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 7141/2021

Date of Institution ... 03.08.2021

Date of Decision ... 31.01.2022

Mr. Bilal Said Ex-Tehsil Office Kanungo District Dir Lower.

... (Appellant)

**VERSUS**

The SMBR Khyber Pakhtunkhwa Peshawar and others.

... (Respondents)

Syed Noman Ali Bukhari,  
Advocate

... For Appellant

Muhammad Adeel But,  
Additional Advocate General

... For respondents

**AHMAD SULTAN TAREEN**  
**ATIQ-UR-REHMAN WAZIR**

...  
...

**CHAIRMAN**  
**MEMBER (EXECUTIVE)**

**JUDGMENT**

**ATIQ-UR-REHMAN WAZIR MEMBER (E):-**

This single judgment shall dispose of the instant service appeal as well as the following connected service appeals, as common question of law and facts are involved therein:-

1. Service Appeal bearing No. 7138/2021 titled Anwar Zaib
2. Service Appeal bearing No. 7139/2021 titled Amin-Ud-Din
3. Service Appeal bearing No. 7140/2021 titled Allauddin

02. Brief facts of the case are that the appellant while serving as Office Kanungo in District Dir Lower, was proceeded against on the charges of misconduct and was ultimately dismissed from service vide order dated 29-04-2021. Feeling aggrieved, the appellant filed departmental appeal dated 18-05-

2021, which was rejected vide order dated 08-07-2021, hence the instant service appeal with prayers that the impugned orders dated 29-04-2021 and 08-07-2021 may be set aside and the appellant may be re-instated in service with all back benefits.

03. Learned counsel for the appellant has contended that the impugned orders are against law, facts and norms of natural justice, therefore not tenable and liable to be set aside; that the inquiry and subsequent dismissal of the appellant were made in violation of Rule-2(f)(ii) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and according to such rules, Deputy Commissioner was not competent to proceed the appellant, rather the Board of Revenue was the relevant authority for the purpose, hence the impugned order was passed by the incompetent authority, which amounts to coram non judice, so is void in the eye of law. Reliance was placed on 2014 SCMR 1189; that a fact finding inquiry was conducted at the back of the appellant and it was recommended that the appellant may be proceeded under the law under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, but no regular inquiry was conducted nor the appellant was afforded opportunity of defense; that the appellant was not afforded opportunity of personal hearing in violation of section 10 A of the Constitution and in violation of maxim "audi alterum partum and has not been treated in accordance with law; that no show cause notice was served upon the appellant, which is against the injunctions of Islam too. Reliance was placed on PLD 1989 FSC 39; that the charges leveled against the appellant were never proved against him and the inquiry officer offered his findings on surmises and conjectures; that the appellant has never committed any act or omission with malafide intention, which could be termed as misconduct, albeit the appellant was dismissed from service, which is violation of judgment reported as 1997 PLC CS 564; that no charge sheet/statement of allegation was served upon the appellant, which is violation of Rule-10(b) of the

Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and on the basis of fact-finding inquiry, the appellant was awarded with major penalty of dismissal from service, which is against law, rules and norms of natural justice; that regular inquiry is must before imposition of major penalty of dismissal, which however was not done in case of the appellant.

04. Learned Additional Advocate General for the respondents has contended that the appellant alongwith other staff were held responsible for recording statement before the court of senior civil judge Dir Lower in case of Niaz Muhammad Vs Government, which was decided in favor of Niaz Muhammad, due to which precious state property has been decided in favor of Niaz Muhammad; that in light of the allegations, the appellant as well as other revenue staff was proceeded against and were dismissed from service.

05. We have heard learned counsel for the parties and have perused the record.

06. Record reveals that Tehsildar Hazrat Hussain, Kanungo, Bilal Said and Amin-Ud-Din, Tehsil Accountant Anwar Zaib and Patwari Allauddin were taken to task collectively on the charges of recording statements in the court of senior civil judge, which was detrimental to the interest of the state. The case of Tehsildar was referred to Board of Revenue being competent authority for tehsildar, whereas the remaining officials were proceeded against by the Deputy Commissioner concerned. As per provisions contained in Rule-2 (f)(ii) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, it is provided that where two or more Government servants are to be proceeded against jointly, the competent authority in relation to the accused Government servant senior most shall be the competent authority in respect of all the accused. In the instant case, competent authority for Tehsildar was Senior Member Board of Revenue (SMBR), hence competent authority for the rest of the employees was also SMBR, whereas they were proceeded by Deputy Commissioner in violation of

the rules *ibid*. Dismissal order passed by an officer not competent in law to pass such order would be void and without lawful authority and on this score alone, the impugned orders are liable to be set aside. Reliance is placed on 2014 SCMR 1189. Where basic order is without lawful authority, then superstructure built thereon would fall on the ground automatically. Reliance is placed on 2007 SCMR 1835.

07. Additional Assistant Commissioner (Revenue) conducted a fact-finding inquiry, who recommended to proceed further the appellants as per provisions contained in Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. Another inquiry officer i.e. Additional Deputy Commissioner was appointed as inquiry officer, who without conducting any inquiry, had written a letter dated 05-04-2021 to the Deputy Commissioner that the fact-finding inquiry was thoroughly perused, which transpires that due to statement given by the revenue field staff i.e. Hazrat Hussain Tehsildar, Mr. Bilal Said and Amin-Ud-Din Kanungo, Anwar Zaib Tehsil Accountant and Allauddin Patwari in the court of Senior Civil Judge, due to which irreparable loss occurred to state land, therefore major penalty may be imposed upon them. The Additional Deputy Commissioner further recommended that Tehsildar concerned does not come under the purview of Deputy Commissioner; hence, his case may be referred to SMBR. Upon simple recommendation of the inquiry officer, the revenue staffs including the appellant were dismissed from service without serving charge sheet/statement of allegation as well as show cause notice, thus deprived the appellants to defend their cause in a proper manner. The Supreme Court of Pakistan in its judgment reported as 2008 SCMR 1369 has held that in case of imposing major penalty, the principles of natural justice required that a regular inquiry was to be conducted in the matter and opportunity of defense and personal hearing was to be provided to the civil servant proceeded against, otherwise civil servant would be condemned unheard and major penalty of dismissal from service would be imposed upon him

without adopting the required mandatory procedure, resulting in manifest injustice. It was noted that no damage was caused to the state due to statements recorded by the appellants, as the respondents filed case against the judgment in the next higher court, which is pending adjudication, which will be decided on merit in due course.

08. The appellants were not afforded appropriate of opportunity of personal hearing, thus were condemned unheard. It is a cardinal principle of natural justice of universal application that no one should be condemned unheard and where there was likelihood of any adverse action against anyone, the principle of Audi Alteram Partem would require to be followed by providing the person concerned an opportunity of being heard. The inquiry officer recommended the appellant based on a fact-finding inquiry with no solid evidence against the appellants. Mere reliance on a fact-finding inquiry and that too without confronting the appellant with the same had no legal value and mere presumption does not form basis for imposition of major penalty, which is not allowable under the law. Reliance is placed on 2016 SCMR 943, 2010 SCMR 1554, 2010 PLC (CS) 67 and 2019 CLC 1750.

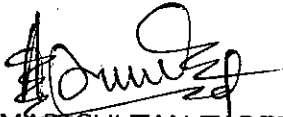
09. No charge sheet/statement of allegation was served upon the appellant and in absence of service of charge sheet/statement of allegation on civil servant would be void and nullity in the eye of law as civil servant was not confronted with them. Reliance is placed on 2008 SCMR 609. The authorized officer failed to frame proper charge and communicate it to the appellant's alongwith statement of allegations explaining the charge and other relevant circumstances proposed to be taken into consideration. Framing of charge and its communication alongwith statement of allegations was not merely a formality but it was a mandatory pre-requisite, which was to be followed. Reliance is placed on 2000 SCMR 1743. Inquiry conducted without serving charge sheet is void ab initio. Reliance is placed on 2008 SCMR 609. No regular inquiry was conducted and the appellants


were penalized based on fact-finding inquiry but major penalty cannot be imposed because of fact-finding inquiry. Reliance is placed on 2004 SCMR 294, 2008 PLC (CS) 1107 and 2008 PLC (CS) 1065.

10. No show cause notice was served upon the appellants before taking adverse action against them which is violation of Rule-5(a) read with Rule-7 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 in case inquiry was not necessary and Rule-14(b), in case where regular inquiry was necessary, which were totally ignored before taking adverse action, which was illegal, unlawful and contrary to the norms of natural justice. Reliance is placed on 1987 SCMR 1562, 2019 PLC CSE 811 and 2008 PLC CS 921.

11. We are of the considered opinion that the appellants have not been treated in accordance with law and the impugned orders were issued in an arbitrary manner without adhering to the method prescribed in law. In view of the foregoing discussion, the instant appeal as well as the connected service appeals are accepted. The impugned orders are set aside and the appellants are reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to room.

ANNOUNCED  
31.01.2022

  
(AHMAD SULTAN TAREEN)  
CHAIRMAN

  
(ATIQ-UR-REHMAN WAZIR)  
MEMBER (E)

ORDER


31.01.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the instant appeal as well as the connected service appeals are accepted. The impugned orders are set aside and the appellants are re-instated in service with all back benefits. Parties are left to bear their own costs. File be consigned to room.

ANNOUNCED

31.01.2022



(AHMAD SULTAN TAREEN)  
CHAIRMAN



(ATIQ-UR-REHMAN WAZIR)  
MEMBER (E)

28.01.2022

Counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

Due to paucity of time, arguments could not be heard. To come up for arguments on 31.01.2022 before the D.B.

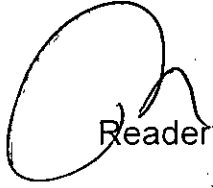
(Atiq-Ur-Rehman Wazir)  
Member (E)

  
Chairman



24.12.2021

Due to winter vacations, case is adjourned to 13.01.2022 for the same as before.

  
Reader

13.01.2022

Learned counsel for the appellant present. Mr. Javed Ullah, Assistant Advocate General alongwith Mr. Gul Said Assistant Commissioner (Revenue) for respondents present.

Due to paucity of time, arguments could not be heard. Adjourned. To come up for arguments before the D.B on 18.01.2022.


  
(Atiq-ur-Rehman Wazir)  
Member(E)

  
Chairman

18.01.2022

Appellant alongwith counsel present. Mr. Muhammad Adeel Butt, Addl. AG alongwith Gul Said, Assistant Commissioner for the respondents present.

During the course of arguments, it transpired that three other appeals No. 7138/2021, 7139/2021 and 7140/2021 against the same impugned order dated 29.04.2021 are fixed for 23.02.2022. In order to avoid conflicting judgments, those appeals are also clubbed with the appeal in hands. Case to come up for arguments on 28.01.2022 before the D.B.

  
(Atiq-Ur-Rehman Wazir)  
Member (E)

  
Chairman

**Bilal Said, 7141/2021**

13.09.2021

Counsel for the appellant present. Preliminary arguments heard.

Learned counsel for the appellant argued that the appellant was awarded major penalty of "dismissal from service" by respondent No.3 vide his order dated 29.04.2021. The appellant preferred departmental appeal to respondent No.2 on 19.05.2021 which was rejected on 08.07.2021, hence, the instant service appeal filed under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974. Learned counsel for the appellant contended that the appellant has been awarded major penalty of dismissal from service on the basis of a preliminary enquiry report. No regular or proper enquiry has been conducted under the provisions of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011 and neither charge sheet/statement of allegations or show cause notice issued to the appellant nor an opportunity of personal hearing afforded to him. Moreover, being a joint enquiry under Rule-2(f)(ii) of the Rules *ibid*, a Tehsildar being senior most accused, Commissioner Malakand (respondent No.2) was competent authority to have passed/issued the impugned order rather than respondent No. 3. His departmental appeal has been decided by respondent No.2 in the manner as court case rather than as departmental appeal submitted to an administrative Head/competent authority. The entire proceedings against the appellant have been conducted contrary and in contravention of the dictates of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and no fair trial to meet the ends of justice have been observed or followed, therefore, the impugned order being void order may be set aside and the appellant reinstated in service with all back benefits.

Points raised need consideration. The appeal is admitted to regular hearing, subject to all just and legal objections including limitation. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time or extension of time is not sought, the office shall submit the file with a report of non-compliance. File to come up for arguments on 24.12.2021 before the D.B.

Appellant Deposited  
Security & Process Fee

13/9/21



(Mian Muhammad)  
Member(E)

Form-A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No.- 7141 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	03/08/2021	<p>The appeal of Mr. Bilal Said presented today by Syed Noman Ali Bukhari Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>13/09/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR  
CHECK LIST**

Case Title: Bilal Saif vs Revenue Deptt

S.#	Contents	Yes	No
1.	This appeal has been presented by: <u>S. Noman Ali Bukhari</u>		
2.	Whether Counsel / Appellant / Respondent / Deponent have signed the requisite documents?	✓	
3.	Whether Appeal is within time?	✓	
4.	Whether the enactment under which the appeal is filed mentioned?	✓	
5.	Whether the enactment under which the appeal is filed is correct?	✓	
6.	Whether affidavit is appended?	✓	
7.	Whether affidavit is duly attested by competent oath commissioner?	✓	
8.	Whether appeal/annexures are properly paged?	✓	
9.	Whether certificate regarding filing any earlier appeal on the subject, furnished?	✗	✓
10.	Whether annexures are legible?	✓	
11.	Whether annexures are attested?	✓	
12.	Whether copies of annexures are readable/clear?	✓	
13.	Whether copy of appeal is delivered to A.G/D.A.G?	✓	
14.	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	✓	
15.	Whether numbers of referred cases given are correct?	✓	
16.	Whether appeal contains cuttings/overwriting?	✗	✓
17.	Whether list of books has been provided at the end of the appeal?	✓	
18.	Whether case relate to this Court?	✓	
19.	Whether requisite number of spare copies attached?	✓	
20.	Whether complete spare copy is filed in separate file cover?	✓	
21.	Whether addresses of parties given are complete?	✓	
22.	Whether index filed?	✓	
23.	Whether index is correct?		
24.	Whether Security and Process Fee deposited? on		
25.	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? on		
26.	Whether copies of comments/reply/rejoinder submitted? on		
27.	Whether copies of comments/reply/rejoinder provided to opposite party? on		

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name: Syed Noman Ali Bukhari

Signature: [Signature]

Dated: \_\_\_\_\_

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. \_\_\_\_\_/2021

Bilal Said

V/S

Revenue Deptt:

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APPELLANT

Bilal Said

THROUGH:

  
(MUHAMMAD ASIF YOUSAFZAI)

Advocate Supreme Court

&  
  
(SYED NOMAN ALI BUKHARI)

ADVOCATE, HIGH COURT

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. \_\_\_\_\_/2021

Bilal Said

V/S

Revenue Deptt:

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APPELLANT

Bilal Said

THROUGH:

  
(MUHAMMAD ASIF YOUSAFZAI)

Advocate Supreme Court

&  
  
(SYED NOMAN ALI BUKHARI)

ADVOCATE, HIGH COURT

20.08.2019 in district Dir lower. Whereby the appellant performed his duties with great zeal, zest, enthusiasm and to the entire satisfaction of the high ups.

2. That in the year 2007, one Mst: Zohra Falak daughter of Muhammad Shah Khusro khan ( Ex-Nawab of Dir ) submitted an application to the District Officer Revenue and Estate, District Dir Lower which was sent to presiding officer, revenue appellate court-111, Swat, for guidance, after inquiry by tehsildar Balambat. The revenue appellate court -111 advised the District Officer Revenue and Estate , Dir Lower in the matter vide, letter No: 5616/RAC-111SWAT dated ; 27-10-2007. The D.O.R D(L) directed the applicant to provides full particulars of the land but the applicant filed writ petition No; 904/2009 for demarcation of the property of the Ex-Nawab of Dir in the Honorable Peshawar High Court , Peshawar which was accepted by the Honorable Peshawar High Court vide its judgment dated: 28-1-2010. But due to non compliance in time the applicant filed writ petition No; 2985/2010 which was also decided in her favor vide judgment dated ; 11-2-2014, in compliance, the Govt submitted its report but the petitioner being aggrieved by the report filed C.O.C No; 411/2014 in the Honorable Peshawar High Court , Peshawar . On 31-3-2015 the Honorable Court again directed the Govt for filling of fresh report . In compliance the district administration withdraw the previous report and submitted a fresh report on 12-9-2015. As the petitioner was not satisfied from the second demarcation report also , and argued the case , in light of which the Honorable Peshawar High court on 21-6-2016 for the third time directed the Govt to submit fresh demarcation report and declare the previous report cancelled being ambiguous . in compliance of the order dated 21-6-2016 the Govt filed another demarcation report on 9-9-2016 . the Honorable court vide order dated 28-2-2018 , directed the Deputy Commissioner , Dir lower to hear the petitioner and by deciding objection petitions if any and decide the same within three months up to the satisfaction of the Honorable Peshawar High Court (**copy of the order dated 28-2-2018 is annexure A**).
3. That the district administration directed Tehsildar Balambat for preparation of report for implementation of the judgment of Peshawar High Court and the task was assigned to the appellant being tehsil office kanungo, along with Amin ud din kanuugo , Anwar Zaib tehsil accountant and Alauddin Patwari Tehsil office Balambat which was prepared in the supervision of Tehsildar Balambat with full devotion

(3)

and great struggle. Later on it was forwarded by Tehsildar Balambat to the Assistant Commissioner, TimerGara for filing before the Honorable Peshawar High court (**copy of the report is annexure -B**).

4. That the said Mst; Zohra Falak before initiation of the above mentioned proceeding sold 12 Sata (kanal) land situated at tehsil Balambat to one Niaz Muhammad through a sale deed dated 22/10/2008 which was duly registered by Sub-Registrar, Dir lower through registry dated 2-2-2009. When the said Niaz Muhammad started construction over the purchased property he was issued notices by the Tehsildar Balambat for removal of encroachment against which he filed a civil suit in the court of Senior Civil Judge, Dir lower titled "NIAZ MUHAMMAD VS GOVERNMENT " for permanent injunction against the govt.
5. That as the appellant along with Amin-ud-din kanungo , Anwar Zaib tehsil accountant and Alauddin Patwari tehsil office Balambat prepared the above mentioned report and Tehsildar Balambat forwarded the same to the Assistant Commissioner, TimerGara. Therefore, Tehsildar Balambat was issued notices and thereafter warrant of arrest against him, however he appeared before the Civil court on dated 5-11-2020 requested the court to issue notice against appellant along with other officials, therefore the Honorable civil Judge-4, Dir lower at TimerGara issued notices by name against the appellant and other two officials for personal appearance before the court. (**copy of the order sheet dated 5-11-2020, notice and warrant of arrest issued by the court are annexure C, D & E**).
6. That the appellant along with others attended the honorable court on 12-10-2020 in pursuance of the notices issued by the Honorable Civil court whereby the appellant along with Tehsildar Balambat and other officials who prepared the report was asked about the report and appellant along with other officials and Tehsildar Balambat recorded their statement stating there in the real fact mentioned in their report and the honorable court thereafter passed a decree in favor of the plaintiff (Niaz Muhammad ). (**Copy of the statement is annexed as annexure -F**).
7. That the district attorney Dir lower without going to the report and understanding fact and previous history of the case, wrote a letter against the appellant and other officials mentioned above to the



11. That feeling aggrieved from the impugned orders the appellant having no other option but to file the instant appeal on the following grounds inter alia :-

**GROUND**

- A. That the orders dated 29.04.2021 and 08.07.2021 is against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B. That the inquiry was conducted jointly against the appellant and other official including Tehsildar, so according to RULE 2(f)(ii) of E&D RULE, 2011 "when two or more Government Servant are to be proceeded against jointly, the competent authority in relation to the accused Government Servant senior most, Shall be the competent authority in respect of all the accused". So, in case of the appellant, appellant was dismissed from service by the Deputy Commissioner and tehsildar case was forwarded to the SMBR for further action which is violation of RULE 2(f)(ii) of E&D RULE, 2011 is also violation of ART-25 of the constitution. So in the instant case SMBR was the Competent Authority not the Deputy Commissioner. Hence, the impugned order was passed by the incompetent authority(DC) and amount to Corrum non Judice, so void in the eye of law. The same principle held in the Superior Court judgments cited as 2014 SCMR 1189.
- C. That Additional Assistant Commissioner (Rev), Dir lower at TimerGara, was nominated an inquiry officer who conducted a fact finding inquiry at the back of the appellant and the appellant was verbally asked for submitting statement in writing. The appellant submitted his detail statement, However, Additional Assistant Commissioner, (Rev) Dir lower at TimerGara, without going through the statement of the appellant and available record, submitted his inquiry report with recommendation that further procedure may be adopted under E&D rules 2011 but It is worth to mentioned here that quite strangely later on Additional Deputy Commissioner (admin) Dir lower appointed as inquiry officer on the ground that the previous inquiry officer not gave recommendation for penalty (in law it is not domain of the inquiry officer to recommend punishment). However new inquiry officer who never conducted inquiry but only gave recommendation on the previous inquiry report proposing major

(5)

Deputy Commissioner Dir lower. **(copy of letter is annexed as annexure G).**

8. That the Deputy Commissioner , Dir lower without going to the available record, fact of the case and adopting proper procedure as / mentioned in Khyber Pakhtunkhwa Efficiency and Disciplinary Rules 2011, order for a fact finding , inquiry against the appellant on the allegation that the appellant appeared and recorded statement without any authorization before the court of law . Additional Assistant Commissioner, (Rev) Dir lower at TimerGara, was nominated an inquiry officer who conducted a fact finding inquiry at the back of the appellant and the appellant was verbally asked for submitting statement in writing. The appellant submitted his detail statement, However, Additional Assistant Commissioner, (Rev) Dir lower at TimerGara, without going through the statement of the appellant and available record, submitted his inquiry report with recommendation that further procedure may be adopted under E&D rules 2011 but It is worth to mentioned here that quite strangely later on Additional Deputy Commissioner (admin) Dir lower appointed as inquiry officer on the ground that the previous inquiry officer not gave recommendation for penalty (in law it is not domain of the inquiry officer to recommend punishment). However new inquiry officer who never conducted inquiry but only gave recommendation on the previous inquiry report proposing major penalty against the appellant. **(Copies of the statement, inquiry report and recommendations are annexed as annexure H, I &J).**
9. That the Deputy Commissioner Dir lower without adopting proper procedure under E3&D rules 2011 and without affording opportunity of defense and personal hearing straightaway dismissed the appellant in a manner alien to the law of the land vide impugned order dated 29-4-2021 which was communicated on 30-4-2021. **Copy of impugned order is attached as annexure-K.**
10. That feeling aggrieved from the impugned order dated 29-4-2021 appellant filed departmental appeal dated 18.05.2021 which was rejected vide order dated 08.07.2021 being treated as court case which is also alien to the civil servant act 1973 and appeal rules 1986. **Copy of departmental appeal and rejection order is attached as annexure-L & M.**

inquiry was not necessary and 14(5) of the E&D rules 2011 in case where inquiry is necessary. The same principle held in the Superior Court judgments cited as 2006 SCMR 1641.

- N. That on one hand the appellant along with other official was directed for preparation of report for implementation of the High Court judgment which was prepared and submitted onward and on the other hand the appellant was penalized for recorded statement in the light of said report in the civil court on court direction. Further it is stated that the high rank official (Tehsildar) was also appear with the appellant who was immediate boss of the appellant. However he appeared before the court on dated 5-11-2020 requested the court to issue notice against appellant along with other officials, therefore the Honorable Civil Judge-4, dir lower at TimerGara issued notices by name against the appellant and other two officials for personal appearance before the court. That the appellant along with others attended the honorable Civil Court on 12-10-2020 in pursuance of the notices issued by the honorable court whereby the appellant along with tehsildar Balambat and other officials who prepared the report was asked about the report and appellant along with other officials and tehsildar Balambat recorded their statement stating there in the real fact mentioned in their report and according to law the every citizen and every functionary of the government of the state is duty bound to obey the direction of the court of law. So, there is no question arise of unauthorized statement.
- O. That Niaz Muhammad filed application to Deputy Commissioner and stated that the appellant properly buy this property from Mst: Zahra Falak D/o Nawab Muhammad Shah Khusro (late) but Tehsildar Balambat disturbing him for such property and requested for initiate inquiry. On the application sub-registrar confirmed that the sale deed was available and properly registered and also stated that the said property belongs to Nawab and the same was sold to Niaz Muhammad. The tehsildar make a site map of the property and also submitted his detailed report on the said property and requested to same be incorporated in C.O.C, the said report was submitted to DC Lower Dir for approval. The DC, Dir Lower approved the report and direction issued to same may be incorporated in the report. **Copy of documents is attached as annexure-N**
- P. That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

(a)

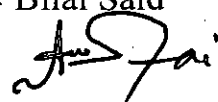
It is, therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for, with cost -



**APPELLANT**

Bilal Said

**THROUGH:**



**(MUHAMMAD ASIF YOUSAFZAI)**

**Advocate Supreme Court**



**(SYED NOMAN ALI BUKHARI)**

**ADVOCATE, HIGH COURT**

**BEFORE THE KP SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. \_\_\_\_\_/2021

Bilal Said

V/S

Revenue Deptt:

**CERTIFICATE:**

It is certified that no other service appeal earlier has been filed between the present parties in this Tribunal, except the present one.

DEPONENT

**LIT OF BOOKS:**

1. Constitution of the Islamic Republic of Pakistan, 1973.
2. The ESTA CODE.
3. Any other case law as per need.

  
(SYED NOMAN ALI BUKHARI)  
ADVOCATE HIGH COURT

11

**BEFORE THE KP SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. \_\_\_\_\_/2021

Bilal Said

V/S

Revenue Deptt:

**AFFIDAVIT**

I, BILAL SAID, (Appellant) do hereby affirm that the contents of this service appeal are true and correct, and nothing has been concealed from this honorable Tribunal.

  
DEPONENT

Bilal Said

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**BEFORE THE HONBLE KHYBER PAKHTUNKHWA SERVICES**  
**TRIBUNAL PESHAWAR**

In S.A \_\_\_\_\_/2021

Bilal Said

VS.

Revenue deptt

**APPLICATION FOR SUSPENSION OF OPERATION OF**  
**IMPUGNED ORDER DATED 29.04-2021** 2/25  
**AND 08.07.201 TILL THE DISPOSAL OF MAIN APPEAL.**

**RESPECTFULLY SHEWETH,**

1. That the Appellant / Applicant is filing the instant application, the contents of which may very graciously be considered as integral part and parcel of the instant Appeal.
2. The Appellant has got a strong prima facie case in his favor and is very much sanguine of its success.
3. That balance of convenience lies in favor of the Appellant / Applicant.
4. That constantly, the law, rules, policy and circulars have been violated by the Respondents concerned and if the impugned dismissal order is not suspended, the Appellant / Applicant shall suffer alot.
5. That in given circumstances of the case, suspension of operation of the impugned Orders Dated 29.04.2021 and 08.07.2021 are indispensable.

*It is therefore most humbly prayed that on acceptance of the instant application, the operations of impugned Orders*

*Dated 29.04.2021 and 08.07.2021 may very graciously be suspended, till the final disposal of the instant Service Appeal.*

Dated: 03-08-2021

  
Appellant  
Bilal Siad

THROUGH:

  
(M. ASIF YOUSAFZAI)  
ADVOCATE SUPREME COURT

&   
(SYED NOMAN ALI BUKHARI),  
Advocate High Court

**AFFIDAVIT:**

It is affirmed and declared that the contents of this Application are true and correct to the best of my knowledge and belief.

  
DEPONENT



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PESHAWAR HIGH COURT, MINGORA BENCH  
(DAR-UL-QAZA), SWAT

FORM OF ORDER SHEET

Court of .....

Case No. .... of .....

1. of order link	2. Date of Order or Proceedings	3. Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary.
	28.02.2018	<p><u>C.O.C 411-P/2014 with C.M 1126/2014, C.M 104/2015, C.M 1098/2016, C.M 728/2017 &amp; C.M 729/2017 in W.P 2985/2010</u></p> <p><b>Present:</b> M/S Abdul Qayum, Amir Gulab Khan, Abdul Halim Khan and Sher Muhammad Khan, Advocates for the Petitioners.</p> <p>Muhammad Rahim Shah, Assistant A.G for the official Respondents alongwith Mr. Shah Jamil, Assistant Commissioner, Adenzai, District Dir Lower.</p> <p style="text-align: center;">***</p> <p>Today, when this case was taken up for hearing, the worthy Assistant Commissioner, Adenzai appeared and addressed the Court on the issue, which is the subject matter between the parties. He stated that he has submitted his detailed report. After hearing both the parties, it appeared that the petitioners had laid hands on the properties, which consists of constructed buildings of the Provincial Government. During the course of arguments, attention of the Court was also drawn to the judgment dated 04.1.2018 passed by the august Supreme</p>

Subz Ali\* (D B)

HON'BLE MR. JUSTICE ISHTIAQ IBRAHIM  
HON'BLE MR. JUSTICE MUHAMMAD NASIR MAHFOOZ

**ATTESTED**

Court of Pakistan in Civil Petition No.75-P/2017. In the said case the dispute related to the properties of deceased Nawabzada Muhammad Shahabuddin Khan, who was also one of the legal heir of Ex-Nawab of Dir and the august Supreme Court of Pakistan had disposed of the petition with the directions as contained in Para No.11 quoted below.

"In this view of the matter, it is directed that the Senior Member, BOR, shall within three months from the date of receipt of the copy of order of this Court shall undertake the exercise of identifying and determining the properties of the late Khan of Jandool, as per Notification No.10/16-SOTA-II/72/1522 dated 15<sup>th</sup> September, 1972, hand over the properties identified to the successors in interest of the late Khan of Jandool, in whose favour late Khan of Jandool has alienated and vacant and peaceful possession thereof is handed over to them. In case any property is found to be in use and occupation of any State functionaries/authorities/bodies, and/or any other person through petitioners, adequate compensation for the use and occupation of the property from the date of occupation upto date be paid to the successors-in-interest of Khan of Jandool by the Petitioner No.1."

The present petitioners are also the legal heirs of Ex-Nawab of Dir and have sought relief for implementing the judgment dated 28.1.2010 passed in Writ Petitions No.475/2009 and 2985/2010 of this Court

through the instant petition under the Contempt of Court Ordinance, 2003, wherein the respondents have been directed to redress the grievance of the petitioners by identifying their property and that of the Government through line of demarcation between the two.

Now, four years have lapsed while this petition is pending decision and since the apex Court of Pakistan has clinched the matter in the above referred judgment, therefore, the instant petition also requires to be decided in light thereof. The worthy Assistant Commissioner, states that he is representing only one area of Tehsil Adenzai and properties of Ex-Nawab of Dir are situated in the other area of other Tehsils of Districts Dir Lower and Upper, which were the subject matter of the main petition. He also apprised the Court that he has started the implementation of the above referred judgment of the august Supreme Court of Pakistan, therefore, it would be appropriate that the whole exercise of identification of properties of Ex-Nawab of Dir and the State property is to be carried on together, subject to allowing any aggrieved person that may approach them through proper objection petition. The Deputy Commissioners, Dir Lower and Upper are directed to appoint the officers who are well conversant with the subject matters to finally decide the

*[Handwritten signature]*

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issues involved and handing over physical possession to the concerned parties within a period of three months in the instant matters, while the time fixed by the august Supreme Court of Pakistan for implementing the judgment shall also be followed in letter and spirit.

Adjourned. Be fixed in the last week of May, 2018. To come up alongwith the connected W.P. 205-M/2016.

JUDGE

JUDGE

~~ATTESTED~~

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OFFICE OF THE  
TEHSILDAR BALAMBAT,  
DISTRICT DIR LOWER.

No. 343/2-Judl

Dated Balambat the, 13/12/2019

To,

The Assistant Commissioner,  
Timergara, Dir Lower.

Subject:

IMPLEMENTATION OF THE HONORABLE PESHAWAR HIGH COURT BENCH DAR-UL-QAZA SWAT, ORDER DATED 28.02.2018 PASSED IN C.O.C NO. 411-P/2014, MST: ZOHRA FALAK ETC V/S-SOHAIL KHAN, DEPUTY COMMISSIONER, DIR LOWER AND OTHERS.

Memo:

Kindly refer to your good office letter No. 827-28/COC/AC(T) Dated: 25.04.2019, on the subject cited above.

The attached demarcation report prepared by Revenue Field Staff Tehsil Balambat in respect of the personal property of Ex-Nawab of Dir (Muhammad Shah Khisro Khan) in pursuance of the honorable Peshawar High Court Bench, Dar-ul-Qaza Swat, vide judgment order in C.O.C No. 411-P/2014 Dated: 28.02.2018 on the prescribed format duly signed by all concerned thoroughly perused and is submitted for your kind perusal and further necessary action, please.

(Enclosed 13 Pages, please.)

0-29  
MMA  
28-7-20

Attested

*[Signature]*  
HEAD OF TEHSILDAR  
BALAMBAT, DISTT. DIR.

*[Signature]*  
Tehsildar Balambat,  
Dir Lower.

~~ATTESTED~~

IDENTIFICATION / DEMARCATION REPORT OF THE PERSONAL PROPERTY OF EX-NAWAB OF DIR (MUHAMMAD SHAH KHISRO KHAN) IN LIGHT OF THE HONORABLE PESHAWAR HIGH COURT BENCH DAR-UL-QAZA SWAT, ORDER PASSED IN C.O.C. NO. 411/2014 & W.P. NO. 2985/2010 IN RESPECT OF TEHSIL BALAMBAT DISTRICT DIR LOWER.

S. No.	Name of Tehsil where the property is situated	Details in the Notification No. 10/16-SOTA-II/72-1522 Dated: 15.09.1972	Details of property in the Notification No. 10/16-SOTA-II/72-1522 Dated: 15.09.1972	Present possession of the land	Boundaries of the property
01	02	03	04	05	06
01	Balambat	Schedule - I D.C.R. # 86 Serial # 29 Page # 208	65 Satta Sholgara Land, 02 Motai Barani Land in Village Kohna Dher.	A major portion i.e 28 Satta Land has been restored to Mr. Badshah Zada Bakht Jehan Zeb alias Timer Khan by the order of Secretary to N.W.F.P. (Now Khyber Pakhtunkhwa) in the year 1974. The said land has been sold out by the legal heirs of Mr. Badshah Zada Bakht Jehan Zeb alias Timer Khan to Sher Gujjar R/O Koto. And presently is in the possession of Sher Gujjar of Koto.	<p><b>Piece - 01.</b> North: Land of Malak Sultanat Khan (Late) South: Land of Said Qamar and Zarawar Khan East: Land of Malak Abd-us-Sattar &amp; brothers West: Land of Koto Madrassa / Masjid</p> <p><b>Piece - 02.</b> North: Land of Sher Gujjar South: Land of Faqeer Haji East: Qillagai Khwarh West: Land of Qazi Fazal Aleem</p> <p><b>Piece - 03.</b> North: Irrigation Channel South: Irrigation Channel East: Land of Umar Bacha West: Land of Yousaf Khan</p> <p><b>Piece - 04.</b> North: Land of Shams-ut-Tabraiz South: Land of Said Badshah etc. East: Land of Shams-ut-Tabraiz etc. West: Land of Muhammad Naeem Malak etc.</p>

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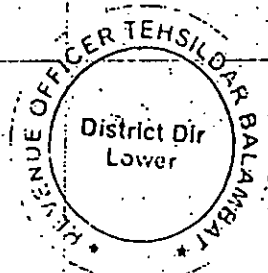
26-9-2019  
آمین الدین تالونکو  
تھیل آفیس بلامبٹ

بلال سید تالونکو  
تھیل آفیس بلامبٹ

علاؤ الدین پٹواری  
تھیل آفیس بلامبٹ

انور زب پٹواری  
تھیل آفیس بلامبٹ

26-9-2019



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01	02	03	04	05	06
Balambat	Schedule - I D.C.R. # 86 Serial # 29 Page # 208	65 Satta Sholgara Land, 02 Motai Barani Land in Village Kohna Dher.	The remaining land of 65 Satta Sholgara Land has been sold out by Ex-Nawab of Dir (Muhammad Shah Khisro Khan) Malak Taj Muhammad Khan (Ex-State Subedar) & Malak Muhammad Yousaf Rs/O Kohna Dher, and now they are in its possession.	Piece - 01 North: South: East: West:  Piece - 02. North: South: East: West:  Piece - 03. North: South: East: West:	Irrigation Channel Land of Kargha Malak & Amin Dad Irrigation Channel Irrigation Channel  Land of Badshah Zada Land of Kargha Malak & Amin Dad Land of Faqeer Haji & Said Akbar Khan Irrigation Channel  Land of Muslim and brothers etc. Land of Makez and brothers Irrigation Channed Land of Bakhtawar Khan
			01 Motai Barani Land in Kohna Dher is in possession of Abd-us-Sattar and brothers Ss/O-Taj M. Khan (Ex-State Subedar) Rs/O Kohna Dher, and they have constructed Pacca houses and a Madrassa "Jamia Farooqia" on the entire 01 Motai Land.	Piece - 01 North: South: East: West:	01 Motai Barani Land at Kohna Dher. Ananguru Khwarh Thorough Fare / Link Road Thorough Fare / Link Road Old Link Road
			01 Motai Barani Land in Ananguru-Khwar is in possession of the legal heirs of Zedul Rs/O Ananguru Khwarh Kohna Dher.	Piece = 02. North: South: East: West:	01 Motai Barani Land at Ananguru Khwar Purchased land of Raza Khan Purchased land of Umara Khan Land of Gul Mehmood Land of Tall Afghanan Memi Khel Rs/O Kohna Dher

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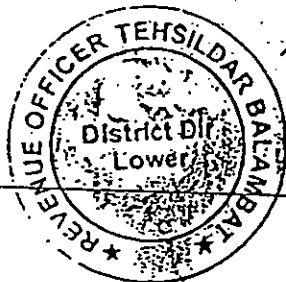
آمین الدین قالونگو  
تحویل آفیس بلامبٹ

علاؤ الدین بیٹواری  
تحویل آفیس بلامبٹ

بلال سید قالونگو  
تحویل آفیس بلامبٹ

محمد سید بیٹواری  
تحویل آفیس بلامبٹ

26-9-2019



ADJUSTER

02	03	04	05	06
Balambat	Schedule - I D.C.R. # 164 Serial # 39 Page # 208	12 Satta of Land in Kohna Dher Kas (Kohna Dher).	The said property has been declared as State Property by the then Member Federal Land Commission Mr. Abd-ul-Qayyum Khan vide order No. R.P.5(123)/FLC/75. Dated: 03.01.1976.	<p><u>Piece - 01.</u></p> <p>North: Irrigation Channel South: Land of Shams Ullah Khan &amp; others East: Land of Muhammad Naeem Malak West: Irrigation Channel</p>
03	-do- Schedule - II D.C.R. # Nil Serial # 88 Page # 219	623 Satta of Land situated at Balambat.	<p>The said 623 Satta of land consists of a number of pieces in possession with different occupants. Detail of the identified and demarcated lands, so far, is given as under:</p> <p><u>Piece # 01: 38 Kanals &amp; 08 Marlas:</u> The said land is in possession of the legal heirs of Said Akbar Khan (Ex-State Subedar) Rs/O (Khema Area) Shatai.</p> <p><u>Piece # 02: 06 Kanals &amp; 17 Marlas:</u> The said land is in possession of the legal heirs of Shah Nasim Khan (Ex-State Jamadar) Rs/O Balambat.</p> <p><u>Piece # 03: 00 Kanals &amp; 07 Marlas:</u> The said land is in possession of the legal heirs of Shah Nasim Khan (Ex-State Jamadar) Rs/O Balambat.</p>	<p><u>Piece - 01.</u> 38 Kanals &amp; 08 Marlas: North: Detail of the said land is mentioned in South: Kathauni No.03 at Khasra No. 89. East: West:</p> <p><u>Piece - 02.</u> 06 Kanals &amp; 17 Marlas: North: Detail of the said land is mentioned in South: Kathauni No.04 at Khasra No. 21. East: West:</p> <p><u>Piece - 03.</u> Piece # 03: 00 Kanals &amp; 07 Marlas: North: Detail of the said land is mentioned in South: Kathauni No.04 at Khasra No. 22. East: West:</p>

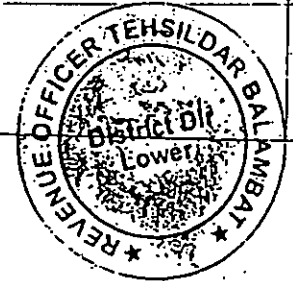
26-9-2019  
آمین الدین قانویگو

بلال سید قانویگو

علاؤ الدین بیٹواری

الوزیر بیٹواری

26-9-2019



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02 Balambat	03 Schedule - II D.C.R. # Nil Serial # 88 Page # 219	04 623 Satta of Land situated at Balambat.	05 <u>Piece # 04: 02 Kanals &amp; 00 Marlas:</u> The said land is in possession of the legal heirs of Shah Nasim Khan (Ex-State Jamadar) Rs/O Balambat.  <u>Piece # 05: 02 Kanals &amp; 07 Marlas:</u> The said land is in possession of the legal heirs of Saifal, Rishtul and Qasim (Ex-State Sepoys) Rs/O Shatai.  <u>Piece # 06: 02 Kanals &amp; 15 Marlas:</u> The said land is in possession of the legal heirs of Mani Gul (Ex-State Sepoy) Rs/O Shatai.  <u>Piece # 07: 01 Kanal &amp; 07 Marlas:</u> The said land is in possession of the legal heirs of Shahbaz (Ex-State Sepoy) Rs/O Malakand.  <u>Piece # 08: 05 Kanals &amp; 16 Marlas:</u> The said land is in possession of the legal heirs of Fazal Wahid S/O Zar Wahid Rs/O Manogai, Bacha Said S/O Hazrat Ali R/O Naqai and Shahbaz (Ex-State Sepoy) Rs/O Malakand.	06 <u>Piece - 04.</u> 02 Kanals & 00 Marlas: North: South: East: West:  <u>Piece - 05.</u> 02 Kanals & 07 Marlas: North: South: East: West:  <u>Piece - 06.</u> 02 Kanals & 15 Marlas: North: South: East: West:  <u>Piece - 07.</u> 01 Kanal & 07 Marlas: North: South: East: West:  <u>Piece - 08.</u> 05 Kanals & 16 Marlas: North: South: East: West:
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آمین الدین قانویگو

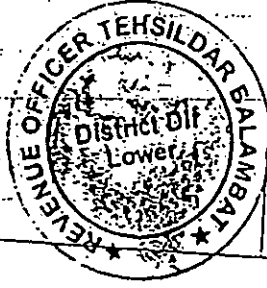
علاؤ الدین پٹواری

بلال سید قانویگو

الوزیب پٹواری

26-9-2019

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01	02	03	04	05	06	
03	Balambat	Schedule - II D.C.R. # Nil Serial # 88 Page # 219	623 Satta of Land situated at Balambat.	<p><u>Piece # 09: 01 Kanal &amp; 09 Marlas:</u>            The said land is in possession of the legal heirs of Laali (Ex-State Sepoy) Rs/O Shikolai through Khan Zarin S/O Shamshu Rs/O Paish.</p> <p><u>Piece # 10: 01 Kanal &amp; 03 Marlas:</u>            The said land is in possession of the legal heirs of Laali (Ex-State Sepoy) Rs/O Shikolai through Hameed Ullah Khan S/O Hameem Khan R/O Safarai.</p> <p><u>Piece # 11: 07 Kanals &amp; 17 Marlas:</u>            The said land is in possession of the legal heirs of Gul Zarin and Izzat Gul (Ex-State Sepoy) Rs/O Safarai and Banda respectively, through Muhammad-Kamil S/O Muhammad Shah R/O</p> <p><u>Piece # 12: 01 Kanal &amp; 03 Marlas:</u>            The said land is in possession of the legal heirs of Gul Zarin and Izzat Gul (Ex-State Sepoy) Rs/O Safarai and Banda respectively, through Muhammad Kamil S/O Muhammad Shah R/O</p> <p><u>Piece # 13: 01 Kanal &amp; 12 Marlas:</u>            The said land is in possession of the legal heirs of Hazrat Hussain (Ex-State Hawaldar) Rs/O Balambat, through Anwar Said S/O Raifal R/O Danduna.</p>	<p><u>Piece - 09.</u>            North:            South:            East:            West:</p> <p><u>Piece - 10.</u>            North:            South:            East:            West:</p> <p><u>Piece - 11.</u>            North:            South:            East:            West:</p> <p><u>Piece - 12.</u>            North:            South:            East:            West:</p> <p><u>Piece - 13.</u>            North:            South:            East:            West:</p>	<p><u>01 Kanal &amp; 09 Marlas:</u>            Detail of the said land is mentioned in Kathauni No.31 at Khasra No. 68.</p> <p><u>01 Kanal &amp; 03 Marlas:</u>            Detail of the said land is mentioned in Kathauni No.33 at Khasra No. 75.</p> <p><u>07 Kanals &amp; 17 Marlas:</u>            Detail of the said land is mentioned in Kathauni No.36 at Khasra No. 65.</p> <p><u>01 Kanal &amp; 03 Marlas:</u>            Detail of the said land is mentioned in Kathauni No.36 at Khasra No. 69.</p> <p><u>01 Kanal &amp; 12 Marlas:</u>            Detail of the said land is mentioned in Kathauni No.46 at Khasra No. 11.</p>

26-9-2019  
 امین الدین قانویگو

علاء الدین بیٹھواری

لال سید قانویگو

الوزیب بیٹھواری



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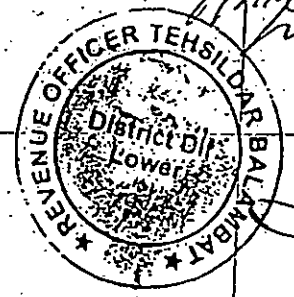
02	03	04	05	06
<p>Balambat</p> <p><i>26-9-2019</i> آمین الدین قانوی</p> <p><i>علاؤ الدین بیٹواری</i></p> <p><i>26-9-2019</i></p> <p><i>28-7-20</i></p>	<p>Schedule - II D.C.R. # Nil Serial # 88 Page # 219</p>	<p>623 Satta of Land situated at Balambat.</p> <p><i>بلال سید قانوی</i></p> <p><i>الغزیز بیٹواری</i></p>	<p><u>Piece # 19: 02 Kanals &amp; 06 Marlas:</u> The said land is in possession of the legal heirs of Mira Khan (Ex-State Sepoy) Rs/O Shatai.</p> <p><u>Piece # 20: 02 Kanals &amp; 11 Marlas:</u> The said land is in possession of the legal heirs of Mansoor (Ex-State Sepoy) Rs/O Shatai.</p> <p><u>Piece # 21: 02 Kanals &amp; 10 Marlas:</u> The said land is in possession of the legal heirs of Raheem Gul (Ex-State Sepoy) Rs/O Shatai, through Afriday S/O Gul R/O Balambat.</p> <p><u>Piece # 22: 00 Kanals &amp; 19 Marlas:</u> The said land is in possession of the legal heirs of Mansoor, Mira Khan and Rahim Gul (Ex-State Sepoys) Rs/O Balambat, through Khaista S/O Noor Muhammad R/O Shatai.</p> <p><u>Piece # 23: 05 Kanals &amp; 02 Marlas:</u> The said land is in possession of the legal heirs of Sharif (Ex-State Sepoy) Rs/O Shatai.</p>	<p><u>Piece - 19.</u> 02 Kanals &amp; 06 Marlas: North: South: East: West: Detail of the said land is mentioned in Kathauni No.53 at Khasra No. 13.</p> <p><u>Piece - 20.</u> 02 Kanals &amp; 11 Marlas: North: South: East: West: Detail of the said land is mentioned in Kathauni No.54 at Khasra No. 14.</p> <p><u>Piece - 21.</u> 02 Kanals &amp; 10 Marlas: North: South: East: West: Detail of the said land is mentioned in Kathauni No.55 at Khasra No. 15.</p> <p><u>Piece - 22.</u> 00 Kanals &amp; 19 Marlas: North: South: East: West: Detail of the said land is mentioned in Kathauni No.56 at Khasra No. 05.</p> <p><u>Piece - 23.</u> 05 Kanals &amp; 02 Marlas: North: South: East: West: Detail of the said land is mentioned in Kathauni No.57 at Khasra No. 12.</p>



**ATTESTED**

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<p>03</p> <p>Balamb at</p>	<p>02</p> <p>Schedule - II</p> <p>D.C.R. # Nil</p> <p>Serial # 88</p> <p>Page # 219</p> <p>26-9-2019</p> <p>آمین الدین خانوگو</p> <p>علاؤ الدین پھواری</p>	<p>03</p> <p>623 Satta of Land</p> <p>situated at Balambat.</p> <p>بلال سید خانوگو</p> <p>الوزیب پھواری</p> <p>26-9-2019</p>	<p>04</p> <p><u>Piece # 24: 02 Kanals &amp; 15 Marlas:</u></p> <p>The said land is in possession of the legal heirs of Malook (Ex-State Sepoy) Rs/O Danduna, through Ajab Khan S/O Mirab Din R/O Balambat.</p> <p><u>Piece # 25: 02 Kanals &amp; 07 Marlas:</u></p> <p>The said land is in possession of the legal heirs of Abasindh (Ex-State Sepoy) Rs/O Shatai.</p> <p><u>Piece # 26: 02 Kanals &amp; 17 Marlas:</u></p> <p>The said land is in possession of the legal heirs of Raza Khan (Ex-State Sepoy) Rs/O Serai.</p> <p><u>Piece # 27: 03 Kanals &amp; 00 Marlas:</u></p> <p>The said land is in possession of the legal heirs of Haleem Ullah (Ex-State Sepoy) Rs/O Karam Khel, Malakand.</p> <p><u>Piece # 28: 01 Kanal &amp; 01 Marla:</u></p> <p>The said land is in possession of the legal heirs of Ghulam Sarwar alias Wazar (Ex-State Subedar) Rs/O Kumbar, Kotkai, through Mir Alam S/O Noor Ahmad Said (Utman Khel) Rs/O Sthana Wand.</p>	<p>05</p> <p><u>Piece - 24.</u></p> <p>North:</p> <p>South:</p> <p>East:</p> <p>West:</p> <p><u>Piece - 25.</u></p> <p>North:</p> <p>South:</p> <p>East:</p> <p>West:</p> <p><u>Piece - 26.</u></p> <p>North:</p> <p>South:</p> <p>East:</p> <p>West:</p> <p><u>Piece - 27.</u></p> <p>North:</p> <p>South:</p> <p>East:</p> <p>West:</p> <p><u>Piece - 28.</u></p> <p>North:</p> <p>South:</p> <p>East:</p> <p>West:</p>	<p>06</p> <p><u>02 Kanals &amp; 15 Marlas:</u></p> <p>Detail of the said land is mentioned in Kathauni No.58 at Khasra No. 10.</p> <p><u>02 Kanals &amp; 07 Marlas:</u></p> <p>Detail of the said land is mentioned in Kathauni No.59 at Khasra No. 09.</p> <p><u>02 Kanals &amp; 17 Marlas:</u></p> <p>Detail of the said land is mentioned in Kathauni No.60 at Khasra No. 06.</p> <p><u>03 Kanals &amp; 00 Marlas:</u></p> <p>Detail of the said land is mentioned in Kathauri No.68 at Khasra No. 67.</p> <p><u>01 Kanal &amp; 01 Marla:</u></p> <p>Detail of the said land is mentioned in Kathauni No.76 at Khasra No. 25.</p>
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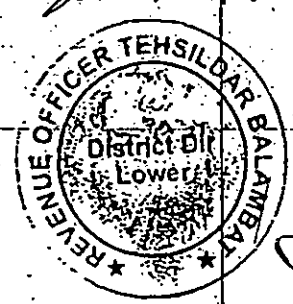
02	03	04	05	06	
Balambat	Schedule - II D.C.R. # Nil Serial # 88 Page # 219	623 Satta of land situated at Balambat.	<p><u>Piece # 29: 09 Kanals &amp; 05 Marlas:</u> The said land is in possession of the legal heirs of Ghulam Sarwar alias Wazar (Ex-State Subedar) Rs/O Kumbar, Kotkai, through Mir Alam S/O Noor Ahmad Said (Utman Khel) Rs/O Sthana Wand.</p> <p><u>Piece # 30: 04 Kanals &amp; 06 Marlas:</u> The said land is in possession of the legal heirs of Masoom (Ex-State Sepoy) Rs/O Timergara.</p> <p><u>Piece # 31: 12 Satta of Land at Anderai:</u> The said land has been sold out by Mst: Zuhra Falak D/O Muhammad Shah Khisro Khan (Ex-Nawab of Dir) to one Mr. Niaz Muhammad S/O Nazar Muhammad R/O Anderai, Tehsil Balambat, vide Sale Deed dated: 22.10.2008. But the said property is still subjudice in the Court of Civil Judge - IV, Timergara Dir Lower.</p> <p><u>Piece # 32: 00 Kanals &amp; 11 Marlas:</u> Some of the land is lying vacant while on some of the land there exist three cabins. The said land is in possession of Mr. Ghulam Raheem (Ex-State Sepoy) S/O Said Rahim R/O Gulo, Thangay, Balambat.</p>	<p><u>Piece - 29.</u> North: South: East: West:</p> <p><u>Piece - 30.</u> North: South: East: West:</p> <p><u>Piece - 31.</u> North: South: East: West:</p> <p><u>Piece - 32.</u> North: South: East: West:</p>	<p><u>09 Kanals &amp; 05 Marlas:</u> Detail of the said land is mentioned in Kathauni No.76 at Khasra No. 26.</p> <p><u>04 Kanals &amp; 06 Marlas:</u> Detail of the said land is mentioned in Kathauni No.78 at Khasra No. 07.</p> <p><u>12 Satta of Land at Anderai:</u> Residential House of Fazal Rabbani River Pankora Mano Khwarh Link Road</p> <p><u>00 Kanals &amp; 11 Marlas:</u> Link Road Graveyard Timergara Munda Road G.H.S. Balambat</p>

26-9-2019  
آمین الدین قانولنگو

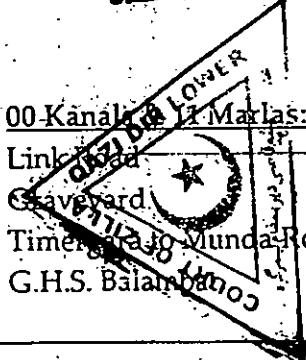
بلال سید قانولنگو  
5/10/20

علاؤ الدین پٹواری

الغریب پٹواری  
26-9-2019



SEADER TO TEHSILDAR  
BALAMBAT, DISTT. DIR

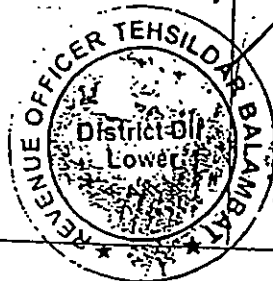


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ATTESTED

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02	03	04	05	06
Balambat	Schedule - H D.C.R. # Nil Serial # 89 Page # 219	46 Satta of Land in Gharha (Sindh).	The said land, vide D.C.R # 100 Dated: 11.10.1972, has been restored to Wilayat Khan and others Rs/O Diaroon Tehsil Balambat by the then worthy Deputy Commissioner, Dir.	<u>Piece - 01.</u> North: South: East: West: The said land had been eroded by heavy flood in River Panjkora in the year 1976. And now the said land falls in the limits of River Panjkora, having no definite boundaries.
05	-do- Schedule - II D.C.R. # Nil Serial # 90 Page # 219	114 Satta of Land in Kohna Dher.	01. Some of the property is entered in the name of Abd-ul-Hameed (Ex-State Sepoy) as "Ghair Dakhilkar" vide Kathauni No. 08 at Khasra No. 85.  02. Some of the property is entered in the name of Mirza Khan (Ex-State Sepoy) as "Ghair Dakhilkar" vide Kathauni No. 39 at Khasra No. 84.  03. Some of the property is entered in the name of Hazrat Hussain (Ex-State Hawaldar) as "Ghair Dakhilkar" vide Kathauni No. 45 at Khasra No. 121.  04. Some of the property is entered in the name of Hazrat Hussain (Ex-State Hawaldar) as "Ghair Dakhilkar" vide Kathauni No. 45 at Khasra No. 123. This land is in possession of the legal heirs of Taj Muhammad Khan Rs/O Kohna Dher and they have constructed "Pacca houses" and a Madrassa "Jamia Faarooqia" on it.	<u>Piece - 01.</u> North: South: East: West: Land of Gul Bacha & M. Nageen Land of Feroz Khan etc. Land of Gul Bacha Land of Gul Shahzada  <u>Piece - 02.</u> North: South: East: West: Land of Shah Nazar Khan Land of Gul Bacha and others Irrigation Channel Land of Gul Bacha <u>Piece - 03.</u> North: South: East: West: 46 Kanals & 15 Marlas: Ananguru Khwarh Thorough Fare / Link Road Thorough Fare Old Link Road  <u>Piece - 04.</u> North: South: East: West: 49 Kanals & 08 Marlas: Purchased land of Raza Khan Purchased land of Umara Khan Land of Gul Mehmood etc. Land of Tall Afghanan, Memi Khel. Rs/O Kohna Dher.



26-9-2019  
آمین الدین قانویگر

علو الدین بیٹواری

بلال سید قانویگر

الفوزیہ بیٹواری

26-9-2019

26-9-2019

26

02	03	04	05	06
Balambat	Schedule - II D.C.R. # Nil Serial # 90 Page # 219	114 Satta of Land in Kohna Dher.	05- Some of the property is entered in the name of Gul Shahzada (Ex-State Sepoy) R/O Qillagai and Mundawal (Ex-State Sepoy) R/O Rabat as "Ghair Dakhilkar" vide Kathauni No. 47.  06. Some of the property is entered in the name of Kand Khan S/O Gul Majeed R/O Shatai as "Ghair Dakhilkar".  07. Some of the property is entered in the name of Aitabar Jan (Ex-State Sepoy) R/O Qillagai as "Ghair Dakhilkar" and now is in the possession of his legal heirs.	<u>Piece - 05.</u> North: South: East: West:  <u>Piece - 06.</u> North: South: East: West:  <u>Piece - 07.</u> North: South: East: West:
06	-do-	Schedule - II D.C.R. # Nil Serial # 91 Page # 219	02 Satta of Land in Gharha.	<u>Piece - 01.</u> North: South: East: West:
07	-do-	Schedule - II D.C.R. # Nil Serial # 92 Page # 219	02 Motai of land in Rabat (Sindh).	<u>Piece - 01.</u> North: South: East: West:
			The said land, vide D.C.R # 100 Dated: 11.10.1972, has been restored to Wilayat Khan and others Rs/O Diaroon Tehsil Balambat by the then worthy Deputy Commissioner, Dir.	The said land had been eroded by heavy flood in River Panjkora in the year 1976. And now the said land falls in the limits of River Panjkora, having no definite boundaries.
			The said property has been restored to Qadar Khan etc. Rs/O Rabat by the then Deputy Commissioner, Dir vide order, Dated: 21.10.1972 and later on by Mr. Sher Afzal Khan, O.S.D, vide order, Dated: 21.08.1973.	<u>03 Kanals &amp; 16 Marlas:</u> Detail of the said land is mentioned in Kathauni No.66 at Khasra No. 86.  <u>02 Kanals &amp; 10 Marlas:</u> Detail of the said land is mentioned in Kathauni No.66 at Khasra No. 86.  <u>1/2 Motai:</u> Land in possession of Siraj-ud-Dir etc. Land of Muhammad Khan Land of Lal Muhammad etc Graveyard

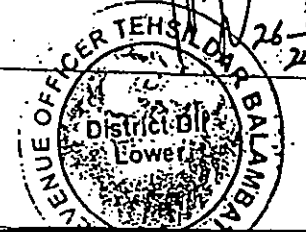
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26-9-2019  
آمین الدین خانونکو

برال سید خانونکو

علاوالدین پٹواری

الوزیب پٹواری



22

02	03	04	05	06
Balambat	Schedule - II D.C.R. # Nil Serial # 92 Page # 219	02 Motai of land in Rabat (Sindh).		<p><u>Piece - 02.</u> North: Boundary of Banjo Dhera South: Land of Muhammad Yousaf, Khwarh East: Talai Ghwaz Khwarh West: Land of Ghwandai</p> <p><u>Piece - 03.</u> North: Land of Naseeb Rawan etc. South: Land in possession of Sawdagar etc. East: Land of Naik Muhammad etc. West: Graveyard</p>
08	-do- Schedule - II D.C.R. # Nil Serial # 93 Page # 219	22 Motai of land in Safarai.	The said land is in possession of the residents of village Safarai, Malakand Darra Tehsil Balambat.	<p>North: The said village, Safarai is situated in the premises of Malakand Darra Tehsil Balambat. South: East: West:</p>
09	-do- Schedule - II D.C.R. # Nil Serial # 94 Page # 219	22 Motai of land in Koire.	The said land is in possession of the residents of village Koire, Malakand Darra Tehsil Balambat.	<p>North: The said village, Koire is situated in the premises of Malakand Darra Tehsil Balambat. South: East: West:</p>
10	-do- Schedule - II D.C.R. # Nil Serial # 95 Page # 219	22 Motai of land in Banda.	The said land is in possession of the residents of village Banda (Payeen and Bala), Malakand Darra Tehsil Balambat.	<p>North: The said village, Banda is situated in the premises of Malakand Darra Tehsil Balambat. South: East: West:</p>
11	-do- Schedule - II D.C.R. # Nil Serial # 229 Page # 225	03 Water Flour Mills at Koto.	The said three water flour mills are in possession of the legal heirs of Taj Muhammad Khan (Ex-State Subedar).	<p>North: Irrigation Channel South: Land of Koto Masjid &amp; Timer Khan (L) East: Land of Koto Masjid West: Irrigation Channel</p>

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26-9-2019  
آمین الدین قانوی

26-9-2019  
علاء الدین پٹواری  
بال سید قانوی

26-9-2019  
OFFICER TEHSILDAR BALAMBAT  
District - III  
Lower



	03	04	05	06	
Balambat	Schedule - II D.C.R. # Nil Serial # 230 Page # 225	02 Water Elour Mills at Kohna Dher.	The said three water flour mills are in possession of the legal heirs of Taj Muhammad Khan (Ex-State Subedar).	North: South: East: West:	Irrigation Channel Irrigation Channel / Thorough Fare Irrigation Channel House of Qadir Jan

**Certificate:**

It is certified that the identification / demarcation report in respect of Tehsil Balambat Dir Lower, submitted in light of the judgment dated: 11.02.2014 of the Honorable Peshawar High Court, Peshawar passed in writ petition No. 2985/2010 and subsequent order dated: 28.02.2018 of the Honorable Dar-ul-Qaza, Swat passed in C.O.C No. 411/2014 in writ petition No. 2985/2010 is strictly in accordance with the Notification No: 10/16-SOTA-II/72-1522 Dated: 15.09.1972. Further, it is certified that the property notified vide Notification No: 10/16-SOTA-II/72-1520 Dated: 15.09.1972 as State Property has not been effected during the identification / demarcation process and is in safe custody.

26-9-2019  
آمین الدین قانونگو  
تھسیل آمین بلامبٹ

بلال سید قانونگو  
تھسیل آمین بلامبٹ

نام  
26-9-2019  
علاؤ الدین بیواری  
تھسیل آمین بلامبٹ

الوزیب بیواری  
تھسیل آمین بلامبٹ

26-9-2019  
REVENUE OFFICER TEHSIL BALAMBAT  
Dir Lower

RECEIVED

26-9-2019  
02-7-2019

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No. of Order Proceedings

FORM "A"  
FORM OF ORDER SHEET  
Court of Civil Judge/IQ \_\_\_\_\_ Dir Lower at \_\_\_\_\_

Case No. \_\_\_\_\_ of \_\_\_\_\_

Title \_\_\_\_\_ Vs \_\_\_\_\_

Serial No. of Order or Proceedings	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3

0-33

22/9/20

مرکی مذکورہ فیصلہ، لہذا فیصلہ کیا گیا ہے کہ  
 طفرہ سے، مذکورہ سب سے سزا دیا جائے  
 اعلیٰ عدالت کا حکم مقررہ مورخہ 05/10/20 سے  
 سزا عمل میں لائی جائے گی۔

مرکی مذکورہ فیصلہ، لہذا فیصلہ کیا گیا ہے کہ

01-34

5/11/20

حرفہ سے مذکورہ فیصلہ، لہذا فیصلہ کیا گیا ہے کہ

پسین کی وارنٹ پر قلمبند مذکورہ سے سزا دیا جائے

ہے، حافظہ کسان کا بیان اور عدالت کے فیصلے

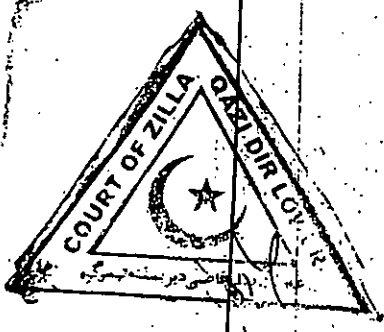
کی بنیاد پر فیصلہ دیا گیا ہے، لہذا فیصلہ کیا گیا ہے کہ

حالات موقوعہ پر دیکھ کر فیصلہ دیا جائے گا

حکومت کو ہم حکم کسان اور سزا دینے کے

تکلیف دینے کے لیے، ان کے اسیام میں

سزا دینے کے لیے، ان کے اسیام میں



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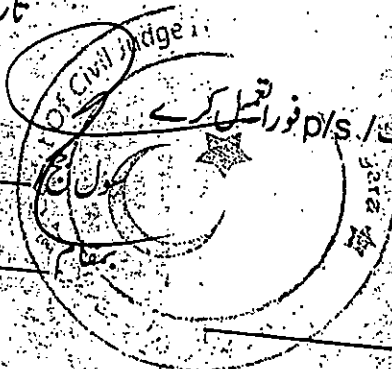
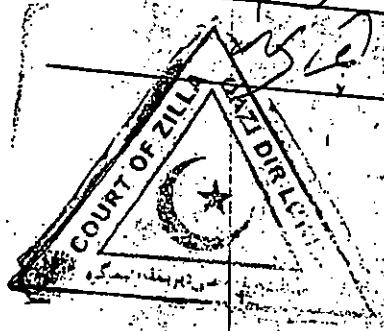
جناب محمد عبدالرشید سولجی صاحب - علاقہ قاضی دریا پور بمقام محکمہ  
مقدمہ نمبر: 514/د سال: 2018 تاریخ پیش: 12-10-2018

نیز محمد بنام محمد عبدالرشید  
ٹولس اسمن بنام محمد عبدالرشید (سوار) محمد عبدالرشید  
نائب ناظر بلال سید ریویٹیوٹیس لا احمد

مقدمہ عنوان بالا میں معلقہ کسٹ بالا کو مطلع کیا جاتا ہے۔ کہ وہ تاریخ: 12-11-2018  
کو صبح عدالت ہذا میں اصالتاً مختیاراً اور کالتاً بسلسلہ محمد عبدالرشید  
تاریخ: \_\_\_\_\_

نمبر 7782

پلٹ p/s فوراً تسلیم کرے۔ محمد عبدالرشید  
علاقہ قاضی دریا محمد عبدالرشید  
ص 6/10/20  
ناظر/نائب ناظر محمد عبدالرشید



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بجرائت محمد جنید عالم سول جج - 17 / علاقہ قاضی تیرگرہ ضلع دیرپائین

11/09

مقدمہ نمبر 514/ سال 2018 تاریخ پیشی 20-10-05

بیاض محمد نام محمد علی صاحب

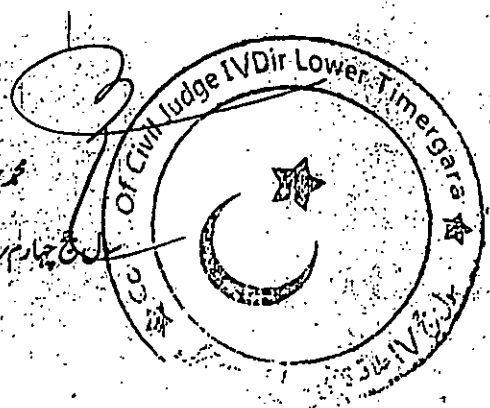
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وارنٹ نام - محمد علی صاحب مددگار دیرپائین

بیاض - مقدمہ عنوان بالا میں لکھا ہے۔ متذکرہ بالا کو بذریعہ وارنٹ ہذا گرفتار کر کے مورخہ 20-10-05 کو عدالت ہذا میں پیش کیا جائے۔

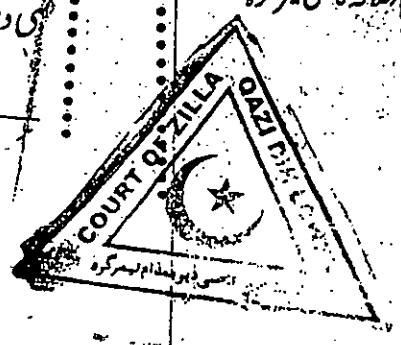
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نمبر 32/1  
تاریخ 29/9/20  
علی اکبر بیاض



محمد جنید عالم  
سول جج چارم علاقہ قاضی تیرگرہ

دیر



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DATE

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مشترک بیان تعلیق و حرم فیلڈ سٹاف

12/10/2020  
MMA

مشترک بیان و تیس در عدالت عالیہ کراچی کی طرف سے  
منسلک در دارالقضا سورت) حکم صادرہ 28/2/2018

WP No 2985/2010 - 411 - P/2011

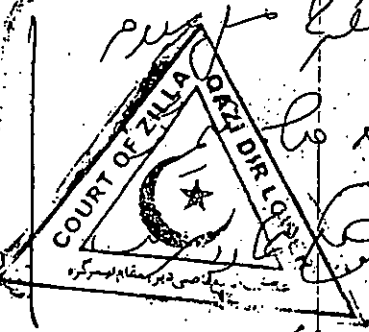
بقیہ منسلک حکمہ عدالت عالیہ کراچی کی طرف سے (پوشادہ) اور  
جج سید قاضی (ڈپٹی چیف جسٹس) اور عدالت عالیہ کراچی سے منسلک  
افسیران مالک و عدالت عالیہ کراچی اور عدالت عالیہ کراچی سے منسلک

1522-72-1522-10/16-SOTA-9/15 سے منسلک رپورٹ

بابت نشانہ نہیں / عدالت عالیہ کراچی (26/9/2019) منسلک ہے

منسلک رپورٹ کی کاپی 3 و قلم 31 دن کی لیزر قلم

کے ملکیت بارہ بنیاد کوئی دعویٰ باقی نہیں رہا اس لیے منسلک



موجودہ رپورٹ کی کاپی 3 و قلم 31 دن کی لیزر قلم  
منسلک رپورٹ کی کاپی 3 و قلم 31 دن کی لیزر قلم

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**OFFICE OF THE  
DISTRICT ATTORNEY DIR LOWER AT TIMERGARA**  
**COURT MATTER MOST URGENT**

No 220-22 /DA/Dir/Lower

Dated: 30 / 11 / 2020

✓ To

The Deputy Commissioner,  
Dir Lower at Timergara.

Subject: **NIAZ MUHAMMAD VS GOVERNMENT.**

Respected Sir,

That the above title suit was decided summarily on 20-11-2020 by Civil Judge IV against the Government. During the trial of said suit, the Tehsildar Balambat Hazrat Hussain, Qanungu Bilal Syed and Anwar Zaib, Aminuddin, Alluddin Patwarian recorded their joint statement in favour of plaintiff Niaz Muhammad, and on their statement the civil Judge Decree the suit without recording any detail further evidence. All the above mentioned revenue officials also recorded no objection in the court if the suit property is declared the property of plaintiff. So whether they were authorized to do so and whether the Government intends to file an Appeal against said judgment Dated 20-11-2020.

Please kindly intimate this Office at the earliest.

  
**ARSHAD ALAM**

Flight lieutenant ®  
District Attorney,  
Dir Lower at Timergara.

Endst: \_\_\_\_\_/DA/Dir/Lower

Date: \_\_\_\_\_/\_\_\_\_/2020

Copy forwarded to:

1. The Secretary Law & Human Rights Department Khyber Pakhtunkhwa Peshawar.
2. The Assistant Commissioner Dir Lower at Timergara.

**ARSHAD ALAM**

Flight lieutenant ®  
District Attorney,  
Dir Lower at Timergara

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H.A. 102  
3/12/2020  
Recd.  
DC  
2-12-2020

**ATTESTED**

(1)

بیان ریونیونیٹیشن ڈسٹریکٹ آفیس بلائٹ و سالیقہ تحصیلدار بلائٹ در

انگوائٹری آرائی زیر مقدمہ بعنوان سٹی نیاز محسدر دلر نظیر محسدر بنام تحصیلدار بلائٹ وغیرہ

جناب عالی!

حسب زبانی ہدایت جناب ایڈیشنل اسسٹنٹ کمشنر صاحب ریونیونیٹیشن محسدر بنام ریونیونیٹیشن ڈسٹریکٹ آفیس بلائٹ، بابت انگوائٹری آرائی در مقدمہ عنوان بالا معروض خدمت میں کہ آرائی متدعویرہ تعدادی رقبہ (12 خٹہ) محسدرہ محدودت شمالاً بنگلہ/مکان فقل ربابی جنوباً دریائے پنجکوڑہ مشرقاً مانو خور اور غرباً رابیلہ سٹرک، جسکو سٹی محل زادہ و لدر موززادہ سکنتہ حال کت سٹرو تحصیل بلائٹ (مختیار امام مسماة ظہرہ فلک دختر محسدر شاہ خسرو خان سابقہ نوب آف دیر) نے سٹی نیاز محسدر دلر نظیر محسدر سکنتہ انڈھیرے تحصیل بلائٹ ضلع دیر پائین پر بروئے بیج نامہ محسدرہ (22-10-2008) فروخت کر کے مورخہ (02-02-2009) سب رجسٹرار کے دفتر میں باقاعدہ ماسکی رجسٹری بھی کرائی ہے۔ آرائی مذکورہ بحوالہ نوٹیفیکیشن نمبر: (1520-172-II-SOTA-10/16) مسمرہ (15-9-1972) کے DCR-105 جو کہ سرکاری اراضیات سے متعلق ہے، سرکاری آرائی گردانی کی ہے۔ جس کی تفصیل نوٹیفیکیشن مذکور میں کچھ یوں لکھی گئی ہے۔

"24 Satta of Lalmi Land and 24 Satta of Irrigated Land situated in Timorgara."

گو کہ نوٹیفیکیشن مذکورہ میں درج تمام آرائی کا تحصیل تیمرگراہ میں واقع ہونا درج ہے۔ لیکن DCR # 105 کے فائل میں درج اراضیات کے جو حدود درج ہیں۔ وہ تحصیل بلائٹ کے حدود کے اندر واقع ہیں۔ جو کہ کچھ یوں ہے۔

حد شرقی :- سیندر  
حد مغرب :- سٹرک جنڈول  
حد شمال :- متصل سٹرک و پل کالونی  
حد جنوب :- متصل سٹرک جنڈول و جونی کٹھ  
حدودت 24 خٹہ آبی آرائی :-  
حد شرقی :- متصل بہ سیندر  
حد غرب :- متصل بہ کالونی بلائٹ  
حد شمال :- متصل بہ حد انڈھیرے  
حد جنوب :- متصل بہ سٹرک جنڈول و میلان پل

آرائی مذکورہ بالا (متدعویرہ) تعدادی رقبہ (12 خٹہ) DCR # 105 جو کہ سرکاری اراضیات سے متعلق ہے، کے 24 خٹہ آبی آرائی کے حدود کے اندر واقع ہے۔ یہیں وجہ تحصیلدار بلائٹ کے دفتر سے نیاز محسدر مرصوف کو متعدد بار قانونی نوٹسز برائے (--- جاری بر صغیر نمبر 2 ---)

ATTESTED

(2)

ٹانے تجاوزات برآرائی سٹیٹ جاری کئے گئے تھے۔ کہ وہ آرائی سرکار میں مزید تعمیراتی کام سے باز منع ہو کر تعمیر شدہ کام کو بذات خود ہٹائے۔ بصورت دیگر تمہارے خلاف قانونی کارروائی عمل میں لائی جا کر تعمیر معمار کیا جائے گا۔ لیکن بجائے اس کے کہ وہ آرائی مذکورہ میں تعمیراتی کام سے باز رہے۔ اس نے دیوانی عدالت / سینئر سول جج صاحب تیمر گروہ دیر پائین سے رجوع کر کے تحصیلدار صاحب بلائٹ و دیگر ضلعی آفسران کے خلاف دعویٰ ممبرانہ صدور ڈگری حکم امتناعی دوائی و درخواست ممبرانہ صدور حکم امتناعی عارضی بموضوع (2015-3-28) دائر کئے۔ اور تحصیلدار صاحب بلائٹ نے صدور حکم امتناعی دوائی / عارضی بموضوع (2015-7-24) جمع کر کے استدعا کی کہ آرائی سرکاری آرائی ہے جو باقاعدہ طور پر 105 DCR کے ذریعے سرکاری بزرگیور گورنمنٹ پلیئر عدالت جناب سول جج صاحب II تیمر گروہ دیر پائین مقدمہ عدالت میں درخواست ممبرانہ واپسی مقدمہ عدالت زیر آرڈر 7 رول 10 ض د دائر کیا۔ کیا۔ اور مدعی کو ریونیو کورٹ / کلکٹر دیر پائین کے عدالت میں رجوع کرنے کی ہدایت کی گئی۔ لیکن مدعی نے مستحق نیاز عسرنے منقلہ سول جج صاحب II کے خلاف عدالت ڈسٹرکٹ سیشن جج صاحب تیمر گروہ دیر پائین نے ماتحت عدالت / سول جج صاحب II کو ریمائنڈ کر کے بموضوع (2019-4-19) مدعی نیاز عسرنے درخواست حکم امتناعی کو منظور کیا۔ اور مدعی کو (Own Cost & Risk) پر آرائی متوعومہ میں تکبیری کام کی اجازت دی۔ اور مدعا تسلیم / تحصیلدار بلائٹ و عسرنے کو مدعی نیاز عسرنے کے آرائی متوعومہ سیشن جج صاحب کے روکنے سے بھی منع ہونے کی ہدایت کی۔ جناب ایڈیشنل ڈسٹرکٹ کرنے کیلئے Law Department سے Sanction حاصل کرنے کیلئے ضلعی انتظامیہ نے رجوع بھی بروقت کی۔ لیکن Law Department نے مقدمہ عدالت میں اپیل دائر کرنے کیلئے جناب عالی ا Sanction نہیں دیا۔

چونکہ مقدمہ عدالت بوجہ ریمائنڈ ہونے ماتحت عدالت جناب سول جج-17 صاحب تیمر گروہ سال 2020 تک زیر سماعت رہا۔ اور ہم نے عدالت عدالت کے بار بار سمن / نوٹسز بابت قلمبند کرنے بیان بابت آرائی متوعومہ نوای آرائی ہونے کے بارے میں جو بیان عدالت سول جج-17 صاحب تیمر گروہ میں دیا ہے۔ تو اس بابت معروض خدمت ہیں۔ کہ سال 2007 میں سماة ظہرہ فلک (دختر نواب محمد شاہ خسرو خان آف دیر) نے بزرگیور مختیار عام سٹیٹس محض زیادہ دلگرموزارہ سکند حال کنٹرول تحصیل بلائٹ نے ایک درخواست جناب DCO صاحب دیر پائین کو بغرض نشانی / حد بندی مابین سرکاری و نوای اراضیات بوجہ DCO صاحب دیر پائین کو ضروری کارروائی DCO صاحب دیر پائین نے جناب DOR & E صاحب دیر پائین کو ضروری کارروائی (--- جاری برصغیر عسرنے 3 ---)

APPROVED



(3)

کیلئے ارسال کیا۔ جسکو DOR & E صاحب دیر پائین نے رائے کیلئے ریونیو اپیلیٹ  
 کورٹ - III مقام سیدو شریف سوات کو بھیجوائی - ریونیو اپیلیٹ کورٹ - III  
 نے جوابہ چھی انگریزی نمبری: SWAT - III - RAC / 516 مورخہ (27-10-07)  
 کو جناب DOR & E صاحب دیر پائین کو رائی بھیجوائی - جس کے دو سے جناب  
 DOR & E صاحب دیر پائین نے درخواست گزارہ مسماہ ظہرہ فلک کو اسکی ذاتی /  
 پوری جائیداد کی تفصیلات مثلاً حدودات وغیرہ فراہم کرنے کیلئے ہدایت کی - لیکن  
 درخواست گزارہ نے اپنی جائیداد کی تفصیلات فراہم کرنے کے بجائے معزز عدالت  
 عالیہ / پشاور ہائی کورٹ پشاور میں ایک رٹ پٹیشن نمبر: 904/2009 برائے  
 عد بروری مابین نوابی و سسرکاری اراضیات دائر کی - جسے معزز عدالت عالیہ نے  
 منظور کرتے ہوئے مورخہ (28-01-2010) کو اپنا تفضیلی فیصلہ بحق سائیلہ صادر کیا -  
 عدالت عالیہ کے فیصلے پر فوری طور عمل درآمد نہ ہونے کی وجہ سے سائیلہ نے معزز  
 عدالت عالیہ / پشاور ہائی کورٹ پشاور میں برخلاف حکومت خیبر پختونخوا رٹ پٹیشن نمبر:  
 2985/2010 دائر کیا - جسے بھی معزز عدالت عالیہ نے منظور کر کے مورخہ (11-2-014)  
 کو بحق سائیلہ فیصلہ صادر کیا - جسکی تعمیل کے سلسلے میں سرکار نے اپنا رپورٹ معزز  
 عدالت میں جمع کیا - لیکن سائیلہ مذکورہ رپورٹ سے رنجیدہ ہو کر معزز عدالت عالیہ میں  
 برخلاف شہیل خان ڈپٹی کمشنر دیر پائین وغیرہ Contempt of Court  
 نمبری: 411-P/2014 دائر کیا - مورخہ (31-3-2015) کو معزز عدالت عالیہ نے  
 ہدایت کی - ضلعی انتظامیہ دیر پائین کو ایک Fresh report عدالت عالیہ میں جمع کرنے کی  
 نوابی اراضیات درج نوٹیفیکیشن نمبر: 10/16-SOTA-II/72-1522 کے نشانہ کی بابت  
 مورخہ (12-9-2015) کو دوبارہ رپورٹ جمع کیا - چونکہ سائیلہ اس دوبارہ پیش کردہ  
 رپورٹ سے بھی مطمئن نہ تھی - بریں اسر معزز عدالت عالیہ نے مورخہ (21-6-2016)  
 کو تیسری مرتبہ ضلعی انتظامیہ دیر پائین کو صحیح اور نیا Demarcation رپورٹ  
 پیش کرنے کی ہدایت کی اور سابقہ رپورٹ ہائے کو مبہم تصور کر کے مسترد کر کے - معزز  
 عدالت عالیہ کے احکامات مندرجہ (21-6-2016) کی تعمیل کے سلسلے میں ضلعی  
 انتظامیہ دیر پائین نے اپنا رپورٹ مخرجہ (09-9-2016) معزز عدالت عالیہ میں  
 جمع کیا - مورخہ (28-02-2018) کو معزز عدالت عالیہ نے اپنا مفصل فیصلہ / حکم  
 سنایا - کہ ڈپٹی کمشنر دیر پائین Petitioners کو سن کر اور Objection  
 اور اس ہی حکم / فیصلہ سناتے ہوئے تین ماہ کے اندر اپنا رپورٹ پیش کریں -  
 نمبر 75-P/2017 میں معزز عدالت غلطی اسپریم کورٹ آف پاکستان کے  
 حکم / فیصلہ مخرجہ (04-01-2018) کے Para # 11 میں درج ہدایات کو  
 بھی Reproduce کئے ہیں - جو کہ حسب ذیل ہیں -

"In this view of the matter, it is directed that the Senior Member, BOR, shall within three months from the date  
 (جاری / منقوہ نمبر 4) ----"

ATTESTED

(4)

of receipt of the copy of order of this Court shall undertake the exercise of identifying and determining the properties of the Late Khan of Jandool, as per Notification No. 10/16-SOTA-II/72/1522 dated 15th September, 1972, hand over the properties identified to the successors in interest of the Late Khan of Jandool, in whose favour late Khan of Jandool has alienated and vacant and peaceful possession thereof is handed over to them. In case any property is found to be in use and occupation of any State functionaries/authorities/bodies, and/or any other person through petitioners, adequate compensation for the use and occupation of the property from the date of occupation upto date be paid to the successors-in-interest of Khan of Jandool by the Petitioner No. 1 "

جناب عالی! مندرجہ بالا جتنے بھی رپورٹ ہائے معزز عدالت عالیہ / پشاور ہائی کورٹ میں جمع کئے گئے ہیں۔ ان تمام میں تحصیل بلائٹ سے متعلق نوابی آراضیات درج نوٹیفیکیشن نمبر: (10/16-SOTA-II/72-1522) قرار (15-9-1972) سے متعلق کوئی بھی صاف و صریح رپورٹ جمع نہیں کی گئی تھی۔ بلکہ ضلع حیدرآباد کے دیگر تحصیلوں مثلاً تحصیل تیمرگرہ اور تحصیل ادنی نرئی سے متعلق ہیں۔ حکم / فیصلہ معزز عدالت عالیہ کی پیروی و تعمیل کے سلسلے میں تحصیل آفیس بلائٹ کی طرف سے جوڈیماریکشن رپورٹ پیش کی گئی ہے۔ آرائی متعلقہ مذکورہ رپورٹ کے صفحہ نمبر: 09 پر سیریل نمبر: 03 در قطع نمبر: 31 درج ہے۔ اور اس بابت یہ وضاحت کرتے ہیں کہ آرائی متعلقہ آرائی ملکیت سرکار سے متعلق نوٹیفیکیشن نمبر: (10/16-SOTA-II/72-1520) قرار (15-9-1972) میں درج DCR-105 کے حدودات کے اندر واقع ہے۔ لیکن بحوالہ ہدایات پنجاب SMBR صاحب خیبر پختونخوا پشاور جاریہ در Minutes سے، جس میں ہدایات دی گئی ہیں کہ (09-10-2019) پر سیریل نمبر: C کی دو

"The properties overlapping in Notification No: 1520 and 1522 should be checked on ground by Field Revenue Staff and after measurement clarified for handing over  
(جاری ہر صفحہ نمبر 5)-----"

ATTESTED

to the petitioners.

جناب عالی!

مذید یہ کہ معزز عدالت عالیہ پشاور ہائی کورٹ / مینگورہ بیچ کے فیصلہ / حکم نمبر (2018-02-28) در COC No: 411/2014 کے بعد مری مستحق نیاز محمد ولد نظیر محمد سکنہ انڈیا میں تحصیل بلائٹ نے ایک درخواست نمبر (2018-07-11) خدمت آنجناب ڈپٹی کمشنر صاحب دیر پائین گزری۔ جس میں اس نے استدعا کی کہ آراہی متروکہ اس نے برائے بیچ نامہ نمبر (22/10/2008) سماة ظہرہ فلک دختر نوب محمد شاہ خسرو خان آف دیر سے خریدی ہے۔ اور بعد اس بیچ نامہ کی رجسٹری بموضوع (02/02/2009) بھی کرائی ہے۔ اور یہ بھی استدعا کی ہے کہ تحصیلدار صاحب بلائٹ نے حا طور پر اس کو غیر قانونی نوٹسز بھجوا کر بے جا تنگ کر رہا ہے۔ لہذا تحصیلدار صاحب بلائٹ کو ہدایت کی جائے کہ وہ اس دیر پائین نے سابقہ تحصیلدار صاحب تیرگرہ سے باز و منع رہے۔ درخواست مذکورہ جناب ڈپٹی کمشنر صاحب مارک کیا۔ جس پر سابقہ تحصیلدار صاحب تیرگرہ کو برائے Verification بموضوع (11-7-018) موقع ملاحظہ کیا۔ اور ساتھ ہی اس روز سب رجسٹرار صاحب دیر پائین سے مذکورہ رجسٹری کے بابت بیچ نامہ نمبر (02/02/2009) کو رجسٹرڈ شدہ) بھی Verify کیا۔ جو کہ درست رجسٹرڈ شدہ ثابت ہوا۔ اور مورخہ (2018-07-16) کو درخواست لغائی اراضیات مارک کیا۔ تحصیلدار بندوبست / غنائی بورڈ آف ریلوینو خیسرہ کھنڈو کو برائے حد براری اپنا رپورٹ پیش کیا۔ جس میں انہوں نے موقع ملاحظہ BOR نے مورخہ (2018-08-31) کرنے کے بعد آراہی متروکہ کو نیاز محمد ولد نظیر محمد کے نام پر COC کے رپورٹ میں درج کرنے کی سفارش کی ہے۔ مورخہ (2018-09-06) کو سابقہ تحصیلدار صاحب تیرگرہ نے اپنا تفصیلی رپورٹ جناب ڈپٹی کمشنر صاحب دیر پائین کو پیش کرتے ہوئے آراہی متروکہ کو بندوبست / غنائی بورڈ آف ریلوینو خیسرہ کھنڈو کو پیش کرتے کرنے کا تجویز پیش کیا۔ جسے جناب ڈپٹی کمشنر صاحب دیر پائین نے منظور کرتے ہوئے بموضوع (2018-09-06) تحصیلدار صاحب بلائٹ کو منظور کرنے کے لئے ہدایت کی کہ

“Tdr Balambat to incorporate in his report.”

جناب عالی!

علاوہ ازیں چونکہ DCR-105 میں 24 قسطہ آبی اور 24 قسطہ لہی آراہی ملکیت / قبو ہائی حکومت درج ہے۔ لیکن DCR-105 میں درج حدود کے اندر کل 174 کنال اور 17 ہرے آراہی واقع ہے۔ یہاں پر یہ بھی وضاحت کرتے ہیں کہ ان حدود کے اندر مزید تین عدد DCRs ہیں جن کا شکل رقبہ بشمول DCR-174، DCR-138 و DCR # 395 Para واقع ہے۔ جن کا شکل رقبہ بشمول DCR # 105 (98 کنال اور 10 ہرے) بنتا ہے۔

(--- جاری برصغیر نمبر 6 ---)

ATTESTED

(6)

چونکہ SMBR صاحب کے ہدایات اس بارے میں صریح واضح ہیں کہ جہاں پر نوٹیفیکیشن نمبر 1520 اور 1522 سرٹو (15-9-1972) میں درج اراضیات overlapped ہو تو فیڈریٹو ریونیو فیڈریٹسٹاف موقع پر پیمائش کرنے کے بعد ان اراضیات کو Petitioners کو حوالہ کروانے کیلئے clear کریں۔ تو اس وجہ سے بعد از مندرجہ پیمائش کرنے اور دفتر تحصیلدار بلائٹ میں موجود ریکارڈ کا موقع سے موازنہ کروانے کے بعد ہم جملہ ریونیو فیڈریٹسٹاف نے آرائی متروغیہ کو نواب اراضیات کے فہرست میں شامل کیا ہے۔ مزید یہ کہ بحوالہ حکم معزز عدالت عالیہ ایشیا ریونیو کورٹ سرٹو (28-01-2010) بھی اس ضمن میں واضح ہے۔ اس بابت حکم فیصلہ مذکورہ کا #3 Para حسب ذیل Reproduce کیا جاتا ہے۔

It is the Constitutional and Statutory duty of the respondents to redress the genuine grievance of the petitioner in accordance with law to locate and identify the property of the petitioner and that of the Government, to draw a line of demarcation between the two, so that her apprehension that the property has been encroached upon by the provincial Government, is redressed in a fair manner. It must be done strictly in the way as was directed by the Revenue Appellate Court-III, referred to above vide order dated 27-10-2007.

جناب عالی! مندرجہ بالا احکامات کے تناظر میں اور آفسران بالا کے طرف سے موصوف ہونے والے متعدد تقریری احکامات بابت نشانیوں، حد براری و حوالگی نوابی اراضیات کے تخیل کے سلسلے میں ہم نے آرائی متروغیہ نوابی آرائی گرواں ہے۔ اور اس بابت ہم نے عدالت جناب سول جج - 17 صاحب تیمگرہ کے ہم کو بار بار سماعت / نوٹسز جاری ہونے کے بنا عدالت موصوف میں آرائی متروغیہ نوابی آرائی ہونے سے متعلق موصوف (2020-10-12) کو بیان دیا ہے۔ لہذا ہم جملہ ریونیو فیڈریٹسٹاف کا اسمیں کوئی ذاتی دلچسپی پرگز نہیں ہے۔ لہذا انتہائی ادب کے ساتھ معروض خدمت ہے کہ برائے ہر بانی معاملہ عدالت کے بابت ہمارے خلاف انکو انٹری کو بلا مزید کارروائی داخل دفتر کیا جائے۔

22-12-2020  
علاؤ الدین پٹواری  
تخیل آفیس بلائٹ

22-12-2020  
الورزیب تخیل اکاؤنٹنٹ  
تخیل آفیس بلائٹ

22-12-2020  
بلال سید فانونگو  
تخیل آفیس بلائٹ حال  
تعیات تخیل آفیس تیمگرہ

22-12-2020  
حضرت حسین سابقہ تحصیلدار بلائٹ  
حال تخیل رار ادینتری (چکدرہ)  
(22-12-2020)

ATTESTED

تفصیل لف شدہ کاغذات / دستاویزات ہمراہ بیان ریونیو فیلڈر سٹافی تحصیل آفس بلاسٹ

وسالہ تحصیلدار بلاسٹ در سلسلہ اینکوائری آرائی زیر مقدمہ نیاز محمد بنام تحصیلدار بلاسٹ وغیرہ

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(..... جاری بر صفحہ نمبر 2.....)

ATTESTED

Annexures	تفصیل کاغذات / دستاویزات لف شدہ	نمبر شمار
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22-12-2020

آمین الدین قانونگو  
تحویل آفیس بلاسٹ

22-12-2020

بلال سید قانونگو  
تحویل آفیس تیرگرہ

22-12-2020

علاؤ الدین پٹواری  
تحویل آفیس بلاسٹ

حضرت حسین تحصیلدار بلاسٹ (سابقہ)

حال تحصیلدار ادنیٰ بلاسٹ

ATTACHED



I (42)

OFFICE OF THE  
ADDITIONAL ASSISTANT COMMISSIONER  
(REVENUE) TIMERGARA DIR LOWER

No. 29

Dated Timergara the 22/02/2021

ccdirlower@gmail.com deputy Commissioner Dir Lower @ccdirlower 0945-9250001

The Deputy Commissioner,  
Dir Lower.

Subject:- ENQUIRY REPORT.

Memo:

Kindly refer to your directions dated 18-02-2021 with regards to recommendations in respect of enquiry report submitted vide this office No.304/Reader/AAC (Rev) dated 28-12-2020. Recommendations are as follows:-

RECOMMENDATIONS

As already concluded vide aforementioned report that it has been established, the defendants did not authorize the officials under enquiry to record statement in the learned trial court on their behalf and recording of their statement in the learned trial court tantamount to an unauthorized statement and misconduct on their part. It is therefore suggested that further proceedings in light of the prevailing E&D Rules may be initiated against the concerned officials.

Submitted please.

*Handwritten signature*  
Additional Assistant Commissioner (Rev),  
Timergara Dir Lower.

*Handwritten signature*  
Javed Iqbal  
DC's Office Dir (L)

~~ATTESTED~~

43

OFFICE OF THE ADDITIONAL ASSISTANT COMMISSIONER (REV)  
TIMERGARA DIR LOWER.

NO. 304 / Reader/AAC (Rev)  
Dated: 28 / 12 / 2020

ENQUIRY REPORT.

This is with reference to the office order of the worthy Deputy Commissioner Dir Lower bearing End No 23074-77 dated 08-12-2020 and letter of District attorney vide No. 1220-22 dated 30-11-2020, the undersigned was appointed as inquiry officer to conduct inquiry in light of the letter ibid by the District attorney.

This inquiry report purports to dispose of the matter which pertains to:

The allegation against the then Tehsildar Balambat now working as Tehsildar Adenzai, Bilal Said Kanungo, Anwar Zaib Kanungo, Amin Ud Din and Alla Ud Din Patwaris, that they all recorded their joint statement in the Court of learned Civil Judge IV in case titled Niaz Mohammad V/S Government in favour of plaintiff against the interest of government.

FACTS.

Brief facts leading to the instant enquiry are that one Niaz Mohammad s/o Haji Nazeer Mohammad instituted a civil suit before the Learned Judge Timergara, wherein he took plea that he is the owner of suit property measuring 12 Satta, the boundaries of which are fully detailed in the plaint on the basis of sale deed dated 22.10.2008 and registered deed dated 2.2.2009, whereby he purchased the said property from Mst: Zohra Falak d/o Ex- Nawab of Dir Mohammad Shah Khisro defendant No-6. In the said suit Tehsildar Balambat alongwith other Government Functionaries of Administration Department as well as Revenue Department were made party.

The defendants No 1--- 5 after receiving process through staff put their appearance in the Learned trial court through their representative and contested the suit by filing written statement and at the same time they also submitted a separate application dated 11.01.2016 for return of plaint under order 7 rule 10 of CPC, 1908 due to non jurisdiction of civil court. The said application was accepted by the Learned trial court and returned the plaint to the plaintiff vide order dated 25.04.2016 and against the said order plaintiff preferred an appeal in the court of Learned Additional District & Sessions Judge Timergara, who accepted the appeal vide order dated 14.11.2017 and set aside the decision of Learned Civil Judge and the case was remanded back to the Learned Civil Judge for decision on merits.

1340  
Javed Iqbal  
C.O. B-116  
DC's Office Dir Lower

**ATTESTED**



441

During proceedings before the learned trial court after remand of the case the officials under enquiry appeared before the trial court and recorded their joint statement on 12.10.2020. In the light of said statement the learned trial court granted decree in favour of plaintiff and decided the suit summarily on 20.11.2020.

Feeling aggrieved from the said order the learned Attorney Dir Lower vide letter No.1220-22/DA/Dir Lower dated 30-11-2020 addressed to the worthy Deputy Commissioner Dir Lower wherein he took stance that the officials under enquiry recorded their statement before the learned trial court, so whether they were authorized to do so and whether the court intends to file an appeal against the said judgment.

In response to the said letter of District Attorney the worthy Deputy Commissioner issued office order ibid through which the undersigned was appointed as Inquiry Officer to probe into the matter and fix responsibility and submission of recommendations.

### ENQUIRY PROCEEDINGS.

For the conduct of enquiry the undersigned called on the following concerned revenue officials for submission of their stance alongwith relevant record:-

1. Hazrat Husain the then Tehsildar Balambat now working as Tehsildar Adenzai
2. Mr. Bilal Said Kanungo Tehsil Office.
3. Mr. Anwar Zaib Kanungo Tehsil Office.
4. Mr. Amin Ud Din Patwari.
5. Mr. Alla Ud Din Patwari.

They all mentioned above attended the office of the undersigned on 15-12-2020 and sought time for preparing themselves as at that time there was no record with them. As the request was genuine so honored. They all were directed to appear on 22-12-2020 alongwith complete record for recording their statements. On 22.12.2020 they appeared and submitted their joint written stance and other relevant documents, which were carefully perused.

The officials under enquiry in their written stance depend mostly related to the decisions of different forums. However from whole stance they did not bring any written/verbal authorization from any competent authority to record their joint statement regarding the subject matter in the trial court. As the joint statement of the officials under enquiry leads to the decision of civil suit against the defendants including the Worthy Chief Secretary, Khyber Pakhtunkhwa, Worthy Secretary Board of Revenue, Worthy Deputy Commissioner alongwith others. So they were supposed to firstly obtain the sanction of competent authority/defendants for recording any statement on their behalf and then record the statement, because their joint statement was totally in conflict with the plea of defendants in written statement as well as in the memorandum of appeal preferred by the defendants appellants through District Attorney against the order dated 20.11.2020 of learned trial court.

~~ATTESTED~~

7/3/20  
Attest  
Javed Iqbal  
C.O.  
BCS

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Further no proof was provided by the officials under enquiry that before recording any statement in the learned trial court whether they discussed the matter with the litigation cell of the office of Worthy Deputy Commissioner, Dir Lower or whether any opinion was sought from the District Attorney or his representative.

**CONCLUSION & RECOMMENDATIONS.**

In the light of above observations, it is established that the defendants did not authorize the officials under enquiry to record statement in the learned trial court on their behalf. As the matter is till yet subjudice before the civil court, so the fate of demarcation proceedings regarding the property of Nawab of Dir can betterly be decided by the competent forum. As apparently the recording of statement by the officials under enquiry before the learned trial court during which they denied any right of defendants/Govt: upon the suit property tantamount to an unauthorized statement. Therefore they may be proceeded under the law, if deems appropriate. ↓

Enquiry report along with relevant documents are submitted for your kind perusal, please.

Encl: As above

*[Signature]*  
Additional Assistant Commissioner (Rev)  
Dir Lower at Timergara  
28/12/2020

Assistant Litigation  
For f/n put up.

*[Signature]*  
28/12/20

Attached  
Javed Jabal  
CO-2 (S/16)  
DC's Office (TL)

**ATTESTED**



OFFICE OF THE  
ADDITIONAL DEPUTY COMMISSIONER  
DIR LOWER

No 8198 /ADC, 05 /04/2021

No. 0945-92500137



adcdirlower@gmail.com



0945-9250001



adcdirlower@gmail.com

To,

The Deputy Commissioner, Dir Lower.

J (46)

Subject: INQUIRY REPORT

Memo:

Reference your office order No.3147/Lit, dated 01-03-2021.

The inquiry conducted by the Additional Assistant Commissioner (Rev), Timergara alongwith complete file thoroughly perused, which transpires that due to flimsy joint statement given by the Revenue Field Staff i.e Mr. Hazrat Hussain Tehsildar, Mr. Bilal Said Kanungo, Mr. Anwar Zaib Kahungo, Mr. Amin uddin Patwari and Mr. Alauddin Patwari, in the court of Civil Judge-IV, the government has incurred an irreparable loss to the state land.

Therefore, the undersigned suggests/recommends that major penalty be imposed upon them. So far the Tehsildar Mr. Hazrat Hussain is concerned the same does not come in the purview of Deputy Commissioner, therefore, he may be reported to the Senior Member Board of Revenue, Peshawar along with the copy of the inquiry for further proceeding against him accordingly.

*[Handwritten Signature]*  
Additional Deputy Commissioner,  
Dir Lower.

*Attested*  
*Javed Iqbal*  
*DC's Office (Dir Lower)*

**ATTESTED**



Explanation Folder

OFFICE OF THE  
DEPUTY COMMISSIONER  
DIR LOWER

No. 6430 /Estt:  
Dated Timergara the 29 /04/2021

dcdirlower@gmail.com Deputy Commissioner Dir Lower @dcdirlower 0945-9250001

**OFFICE ORDER**

Whereas, the District Attorney Dir Lower vide letter No. 1220-22/DA/Dir/Lower dated 30/11/2020 complained against the following Revenue Field Staff that they have given their joint statement in case titled "Niaz Muhammad VS Government of Khyber Pakhtunkhwa and others" in the Court of Civil Judge-IV Timergara against the government. Due to which the government sustained huge loss and decided the case against the government.

1. Mr. Aminuddin Kanungo
2. Mr. Bilal Said, Kanungo.
3. Mr. Anwar Zeb, Tehsil Accountant.
4. Mr. Alauddin, Patwari.

Whereas, the Additional Assistant Commissioner, Revenue, was appointed as inquiry officer in the matter vide No. 23074-77/Lit dated 8/12/2020 and he after thoroughly inquired and submit his report/inquiry vide No. 304/Reader/AAC (Rev) dated 28/12/2020 and recommended that they may be proceeded under the law on the grounds that the above Revenue field staff have given "Unauthorized Statement" to the Court due to which the case has been decided against the government.

Whereas, the inquiry officer (AAC Revenue) has not proposed for minor/major penalty in his inquiry report and in the mean while he was transferred from this District to Mansehra Division, therefore, the Additional Deputy Commissioner (Admn.), Dir Lower was again appointed as inquiry officer vide order No. 3148-51 dated 01/03/2021. Accordingly the Additional Deputy Commissioner (Admn.) Dir Lower recommended major penalty for the above named Revenue Field Staff on the grounds that due to their flimsy joint statement the government has incurred an irreparable loss.

Therefore, in light of the forgoing, the undersigned as a Competent Authority under the rule-4 (iii) of the E&D rules, 2011 do hereby impose major penalty upon the above defaulting Revenue Field Staff i.e Mr. Aminuddin, Kanungo, Mr. Bilal Said, Kanungo, Mr. Anwar Zeb, Tehsil Accountant and Mr. Alauddin, Patwari by dismissal from service with immediate effect.

*Ar Laidar*  
Deputy Commissioner  
Dir Lower

No. 6431 - 351 /Estt:

Copy forwarded for information to:-

- 1- The Additional Deputy Commissioner, (Admn.), Dir Lower.
- 2- The District Attorney Dir Lower with refer to above
- 3- The District Accounts Officer Dir Lower
- 4- The Accountant, Local Office.
- 5- Revenue Field Staff concerned.

*Ar Laidar*  
Deputy Commissioner,  
Dir Lower

**ATTESTED**

TO

L (48)

The worthy Commissioner,  
Malakand Division, at Saidu Sharif, Swat.

**Subject:** DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER DATED 29/04/2021 (COMMUNICATED ON DATED: 30/04/2021) WHEREBY THE APPELLANT WAS AWARDED MAJOR PENALTY OF DISMISSAL FROM SERVICE IN A CURSORY MANNER IN UTTER VIOLATION OF LAW, RULES AND PRINCIPLES OF NATURAL JUSTICE.

**Prayers:** ON ACCEPTANCE OF THE INSTANT DEPARTMENTAL APPEAL THE IMPUGNED ORDER DATED 29/04/2021 MAY BE SET ASIDE BY DECLARING ILLEGAL, UNCONSTITUTIONAL, AGAINST THE KHYBER PUKHTUNKHWA EFFICIENCY & DISCIPLINARY RULES 2011, PRINCIPLES OF NATURAL JUSTICE AND VOID AB INITIO AND THE APPELLANT MAY BE REINSTATED IN TO SERVICE WITH ALL BACK BENEFITS.

Respected Sir,

The appellant submits as under:-

1. That the appellant was appointed as Patwari and due to his devotion, sincerity, honesty, hardworking and satisfactory performance appellant was promoted as Tehsil Office Kanungo in District Dir Lower. Whereby the appellant performed his duties with great zeal, zest, enthusiasm and to the entire satisfaction of the higher ups.
2. That in the year 2007, one Mst: Zohra Falak daughter of Muhammad Shah Khisro Khan (Ex- Nawab of Dir) submitted an application to the District Officer Revenue and Estate, District Dir Lower which was sent to presiding officer, Revenue appellate Court -III, Swat, for guidance, after inquiry by Tehsildar Balambat. The Revenue Appellate Court -III advice the District Officer Revenue and Estate, Dir Lower in the matter vide letter No: 5616/RAC-III-SWAT dated: 27-10-2007. The D.O.R D(C) directed the applicant to provide full particulars of the land but the applicant filed writ petition No: 904/2009 for demarcation of the property of Ex-Nawab of Dir in the Honourable Peshawar High Court, Peshawar, which was accepted by the Honourable Court side its judgement dated: 28-01-2010. But due to non-compliance, in time, the applicant filed writ petition No: 2985/2010, which was also decided in her favour vide judgement dated: 11-02-2014, in compliance, the Government submitted its report but the petitioner being aggrieved by the report filed C.O.C No: 411/2014 in the Honourable Peshawar High Court, Peshawar. On 31-03-2015 the Honourable Court again directed the Government for

Reader

*[Signature]*  
Commissioner  
20-05-2021

Attested to be true Copy  
*[Signature]*  
Reader to Commissioner,  
Malakand Division,  
Saidu Sharif Swat.

filing of fresh report. In Compliance the District Administration withdraw the previous report and submitted a fresh report on 12-09-2015. As the petitioner was not satisfied from the second demarcation report also, and argued the case, in light of which the Honourable Court on 21-06-2016 for the third time directed the Government to submit fresh demarcation report and declare the previous report cancelled being ambiguous. In compliance of the order dated: 21-06-2016 the Government filed another demarcation report on 09-09-2016. The Honourable Court vide order dated: 28-02-2018, directed the Deputy Commissioner, Dir Lower to hear the petitioner and by deciding objection petitions if any, and decide the same within three months, up to the satisfaction of the Honourable Court. (Copy of the order dated 28/2/2018 is annexure A)

3. That the District Administration directed Tehsildar Balambat for preparation of report for implementation of the judgement of Peshawar High Court and the task was assigned to the appellant being Tehsil Office Kanungo, along with Amin ud din kanungo, Anwar Zaib Tehsil Accountant and Alauddin Patwari Tehsil Office Balambat which was prepared in the supervision of Tehsildar Balambat with full devotion and great struggle. Later on it was forwarded by Tehsildar Balambat to the Assistant Commissioner, Timergara for filing before the Honourable Court. (Copy of the report is annexure-B) ✓
4. That the said Mst: Zuhra Falak before initiation of the above mentioned proceeding sold 12 Sata land situated at Tehsil Balambat to one Niaz Muhammad through a sale deed dated 22/10/2008 which was duly registered by Sub Registrar, Dir Lower through registry dated 02/02/2009. When the said Niaz Muhammad started construction over the purchased property he was issued notices by the Tehsildar Balambat for removal of encroachment against which he filed a civil Suit in the Court of Senior Civil Judge, Dir Lower titled "NIAZ MUHAMMAD VS GOVERNMENT" for permanent injunction against the Government.
5. That as the appellant along with Amin-Ud-Din Kanungo, Anwar Zaib Tehsil Accountant and Alauddin Patwari Tehsil Office Balambat prepared the above mentioned Report and Tehsildar Balambat forwarded the same to the Assistant Commissioner, Timergara. Therefore Tehsildar Balambat was issued notices and thereafter warrant of arrest against him, however he appeared before the Court and on dated 05/11/2020 requested the Court to issue summon/notice against that appellant along with other officials. Therefore the Honourable Civil Court-IV, Dir Lower at Timergara issued notices by name against the appellant and other three officials for personal appearance before the Court. (Copy of the order sheet dated 05 /11/2020, summons and notice of arrest issued by the Court are annexure C, D & E).

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*Mahid Man*  
Reader to Commissioner,  
Malakand Division,  
Saidu Sharif Swat.

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6. That the appellant along with others attended the Honourable Court on 12/10/2020 in pursuance of the summons/notices issued by the Honourable Court whereby the appellant along with Tehsildar Balambat and other officials who prepared the report was asked about the report and the appellant along with other officials and Tehsildar Balambat recorded their statement stating there in the real fact mentioned in their report and the Honourable Court thereafter passed a decree in favour of the plaintiff (Niaz Muhammad). (Copy of the statement is annexed as annexure F).
7. That the District Attorney Dir Lower without going to the report and understanding fact and previous history of the case, wrote a letter against the appellant and other officials mentioned above to the Deputy Commissioner, Dir Lower. (Copy of the letter is annexed as annexure G)
8. That the Deputy Commissioner, Dir Lower without going to the available record, fact of the case and adopting proper procedure as mentioned in Khyber Pakhtunkhwa Efficiency and Disciplinary Rules 2011 ordered for a fact finding inquiry against the appellant on the allegation that the appellant appeared and recorded statement without any authorization before the Court of law. Additional Assistant Commissioner (Rev:), Dir Lower at Timergara, was nominated an inquiry officer who conducted a fact finding inquiry at the back of the appellant and the appellant was verbally asked for submitting statement in writing. The appellant submitted his detail statement, however Additional Assistant Commissioner (Rev :), Dir Lower at Timergara, without going through the statement of the appellant and available record, submitted his inquiry report without any recommendation. It is worth mentioning that quite strangely later on Additional Deputy Commissioner (Admin) Dir Lower submitted his recommendation on the inquiry report proposing major penalty against the appellant. (Copies of the statement, Inquiry report and Recommendations are annexed as annexure H, I & J).
9. That the Deputy Commissioner Dir Lower without adopting proper procedure and without affording opportunity of defence and personal hearing straightaway dismissed the appellant in a manner alien to the law of the land vide impugned order dated 29/04/2021 which was communicated on 30/04/2021.
10. That feeling aggrieved from the impugned order dated 29/04/2021, the appellant having no other option but to file the instant appeal on the following grounds inter alia:-

**GROUND:**

Attested to be true Copy  
*Shehid Khan*  
Reader to Commissioner,  
Malakand Division,  
Saidu Sharif Swat.

- A. That the impugned order dated 29/04/2021 is against the law, facts, Constitution of Pakistan 1973, Principles of natural

justice, based on mala fide and void ab initio hence not sustainable in the eyes of Law.

- B. That no charge sheet along with statement of allegation issued/served to the appellant which are mandatory under Khyber Pakhtunkhwa Efficiency & Disciplinary Rules 2011.
- C. That the appellant was condemned unheard as no opportunity of personal hearing or defence has been provided to the appellant by the Inquiry Officer or the competent authority which is fundamental right of the appellant.
- D. That neither statement of any witness has been recorded nor did the appellant was confronted with anything.
- E. That on one hand the appellant along with other official was directed for preparation of report for implementation of the High Court judgement which was prepared and submitted onward and on the other hand the appellant was penalised for recording statement in light of the said report in the Civil Court, on the Court direction, which is violation of law and rules.
- F. That authorisation of an official is required when he is representing a high ranking official who is party in a case while there is no need of any authorisation in case when a Court of law issue notice/summon personally to any official for appearance or giving any information or statement in order to enable the Court to reach a just conclusion. Similarly the appellant along with his other colleagues was issued notice/summon/warrant for personal appearance and the appellant obeyed the order of the Court.
- G. Every citizen and every Functionary of the Government of the state is duty bound to obey the directions /orders of every court of law in the country otherwise the Court has the power to take penal actions against anyone who is guilty of defiance of the Court orders instruction and the same is evident from the warrant of arrest issued against the Tehsildar Balambat. Further the disqualification of the Ex-Prime Minister of Pakistan Mr Yousaf Raza Gillani was the recent and glaring example who was subjected to penal action by the Court due to the defiance of instruction of the Honourable Court.
- H. That the appellant was subjected to discrimination as the appellant along with other lower rank official was punished with dismissal while Tehsildar balambat similarly placed high rank official was not even proceeded which is violation of Art 25 of the Constitution of Islamic Republic of Pakistan 1973.
- I. That the right of fair trial , which is a fundamental right as guaranteed by 10 A of the Constitution of Islamic Republic of Pakistan 1973, has not been provided hence the whole proceedings are liable to be set aside .The dictum has been laid

Attested to be true Copy

*Shahid Naw*  
Reader to Commissioner,  
Malakand Division,  
Saidu Sharif Swat.



(52)


down by Supreme Court in the judgement reported as "2016 SCMR 943".


In a recent judgement reported as "2020 PLCCS SINDH 67" High Court declared that even contract employee is entitled for Right of Fair trail but despite the fact that appellatant is a civil servant the same has been denied to the appellatant.

- J. That the appellatant has not violated any rules regulations or instruction of the provincial government nor did abuse his official authority.
- K. That no show cause notice has been issued against the appellatant before issuing the impugned order of dismissal which is mandatory under the Khyber Pakhtunkhwa Efficiency and Disciplinary Rules 2011.
- L. That the appellatant neither concealed anything from the Honourable Court nor did given any false statement on any forum.
- M. That the appellatant since the impugned order is jobless and facing hardship.
- N. That the awarded punishment is too harsh and not commensurate with the act of the appellatant.
- O. That the appellatant seeks personal hearing before your good self.

It is therefore requested that the appeal of the appellatant may kindly be accepted as prayed for.

Appellant

Attested to be true Copy  
  
Reader to Commissioner,  
Malakand Division,  
Saidu Sharif Swat.

 (19-05-2021)  
Bilal Said (Ex-Tehsil Office Kanungo)  
District Dir Lower.

**BEFORE THE COMMISSIONER, MALAKAND DIVISION**  
**AT SAIDU SHARIF SWAT.**

M

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**Case No.173/CMD**

**Date of Institution: 18/05/2021**

AMIN-UD-DIN (EX-TEHSIL OFFICE KANUNGO), DISTRICT DIR LOWER  
..... APPELLANT

VERSUS

THE DEPUTY COMMISSIONER, DIR LOWER ..... RESPONDENT

**Case No.174/CMD**

**Date of Institution: 18/05/2021**

BILAL SAID (EX-TEHSIL OFFICE KANUNGO), DISTRICT DIR LOWER  
..... APPELLANT

VERSUS

THE DEPUTY COMMISSIONER, DIR LOWER ..... RESPONDENT

**Case No.175/CMD**

**Date of Institution: 18/05/2021**

ANWAR ZAIB (EX-TEHSIL ACCOUNTANT BALAMBAT), DISTRICT DIR  
LOWER ..... APPELLANT

VERSUS

THE DEPUTY COMMISSIONER, DIR LOWER ..... RESPONDENT

**Case No.176/CMD**

**Date of Institution: 18/05/2021**

ALAUDDIN (EX-PATWARI), DISTRICT DIR LOWER ..... APPELLANT

VERSUS

THE DEPUTY COMMISSIONER, DIR LOWER ..... RESPONDENT

**DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER DATED  
29/04/2021 PASSED BY THE DEPUTY COMMISSIONER DIR LOWER,  
WHEREBY THE APPELLANTS WERE AWARDED MAJOR PENALTY OF  
DISMISSAL FROM SERVICE IN A CURSORY MANNER IN UTTER  
VIOLATION OF LAW RULES AND PRINCIPLES OF NATURAL JUSTICE**

**ORDER**  
**08.07.2021**

This order shall dispose of the above appeals filed by the above mentioned appellants against office order No. 6430/Estt:, dated 29.04.2021 passed by the Deputy Commissioner, Dir Lower, whereby major penalty of dismissal from service has been awarded to the appellants. As all the four appeals are against the one and same order and are similar in nature, therefore, these are disposed of with this single order.

Brief facts of the case are that the appellants were serving in the office of Deputy Commissioner, Dir Lower as office Kanungo, Tehsil Accountant and Patwari. The appellants attended the Court of learned Senior Civil Judge, Dir Lower in case titled "Niaz Muhammad versus Government" and recorded unauthorized statement against the facts and without consulting record. The District Attorney, Dir Lower vide letter No. 1220-22/DA/Dir/Lower, dated 30.11.2020, requested to Deputy Commissioner, Dir Lower for disciplinary action against the appellants. The Deputy Commissioner, Dir Lower in response conducted a proper inquiry under E&D Rules, 2011 through Additional Deputy

*Attested*  
*Shahid Khan*  
Reader to Commissioner,  
Malakand Division,  
Saidu Sharif Swat.

54

Commissioner, Dir Lower & Additional Assistant Commissioner (Revenue), Dir Lower. In light of the recommendations of the inquiry committee the competent authority i.e Deputy Commissioner, Dir Lower awarded major penalty of "Dismissal from Service" to the appellants. Hence the instant appeal.

The appellants were provided opportunity of personal hearing and heard in detail in presence of the departmental representative of the office of Deputy Commissioner, Dir Lower. The Para-wise comments submitted by the Deputy Commissioner Dir Lower along with case file perused. From perusal of the record and personal hearing of the appellants this court reached to the conclusion that appeals of the appellants are meritless as they badly failed to convince this court. They have nothing to say in their defense as to why they recorded the statement against the facts. The Deputy Commissioner, Dir Lower constituted a two member inquiry committee of senior officer i.e Additional Deputy Commissioner, Dir Lower and Additional Assistant Commissioner (Rev), Dir Lower. The inquiry committee conducted a fair and detail inquiry and recorded major penalty for the appellants. The competent authority i.e Deputy Commissioner, Dir Lower accepted recommendations of the inquiry committee and passed the impugned order. The appellants were supposed to defend interest of the Government in the Civil Court instead they recorded statement against the cause of Government and thus incurred huge loss to the Government.

As the appellants failed to convince this court, therefore, the appeals being meritless are rejected and order of the Deputy Commissioner, Dir Lower dated 29.04.2021 in the instant case is maintained.

**Announced**  
**08.07.2021**

**Commissioner Malakand Division**  
Commissioner, Malakand Division.

Certified that this order consists of 02 pages and that each page is signed by the undersigned.

**Commissioner Malakand Division**  
Commissioner, Malakand Division.

Attested to be true Copy

Receiver to Commissioner,  
Malakand Division,  
Saidu Sharif Swat.

**OFFICE OF THE COMMISSIONER FCR**  
**MALAKAND DIVISION.**

Date of application for Copies---08/7/21  
Date of Preparation of Copies---23/7/21  
Date of delivery of Copies---23/7/21

دینا گھنٹہ

ملاح دینا گھنٹہ - گھنٹہ

سائنس ماہرین کے ذریعے

12/10/2018

In, I have personally visited the spot and verify the dead for SP and for report is available in the back of minutes

Adv. Timayara  
Please verify

Deputy Commissioner  
11/7/18

The S.T (Rep: BOR) Jamal-ud-Din Leggo visit the spot in the light of deed and identify and other contents from witness

11/7/2018

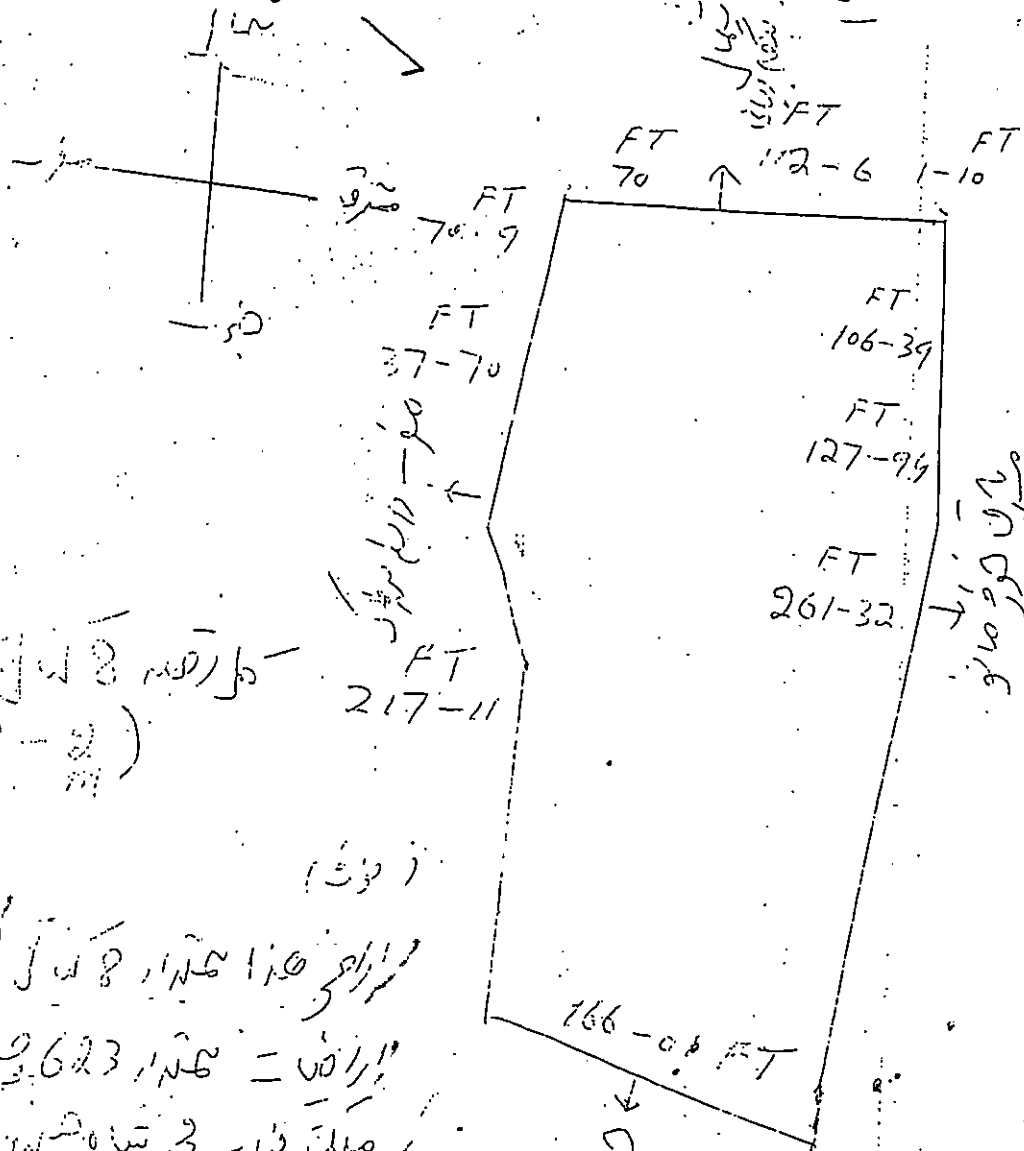
P.T.O

ATTESTED



57

کمال آباد کی زمین کی تفصیل  
محلہ کمال آباد  
رقبہ 2 2/2009  
کامل ملکیت ازان مہمانہ زیر فکدہ دفتر رجسٹریشن  
نمبر 107/2009



کمال آباد  
(8-2)  
K. M.

(نوٹ)  
پلاٹ نمبر 8 کمال آباد  
رقبہ = 623 چورس فٹ  
میلٹی ڈرا - 3/10/2009

کمال آباد  
رجسٹریشن دفتر  
نمبر 107/2009

**ATTESTED**

An application submitted by Mr. Nayaz Muhammad along with Registered Deed No: 71 Bahi No 1 Jild No 3 from Page 78 to 87 verified from S.R. Timergara. His report is available on the back of application. History of the case is that Tehildar Balambhat issued ownership ~~Certificate~~ ~~with No. 162 dated 20/5/2008~~ on the basis of P.O RAC-III Mulakand No. 516 dated 27/10/2007. (in respect of Mst. Zuhra Falak). The nominal Gulzad her Attorney/Kardar under Attorney deed No. 16 dt. 3<sup>12</sup>/<sub>2008</sub> issued and verified by S.R. upper Dir. Her Attorney sold out the landed property and in evidence of signature of Mst. Zuhra Falak ~~deed~~ ~~received~~ by Aurangzeb and Aalia Aurangzeb. The case was referred to Mr. T. Sattawat operation (Rep. of BOR) in visiting spot and his report which is also recorded on the back of application. He visited spot and verified by the attorney of Mst. Zuhra Falak (Mr. Gulzada) and admitted that he sold this property to Nayaz (applicant) on Rs. ~~25,00,000/-~~ 25,00,000/- (Rupees Twenty Lac only). As the property situated in Balambhat Tehsil, the Tehildar Balambhat may

(P.T.O)

~~ATTESTED~~

ask to enter / incorporate in his report of Coc case, Demarcation / Identification of Ex-Nawab Property.

Report is submitted for approval / further Order's of worthy D.C Sab Lower Dir please.

D.C Sab:



Tdy Balambat to incorporate in 6/9/2018 report.

10/5/18 Deputy Commissioner  
Dir Lower

Tdy Balambat -

Received on 26/9/18

Atmari Bilal said and Allaudin 1 Spot verification of the said Land be reported 2 The said Land whether comes Under DCR? Report immediately not also find out if it is a state Land.

~~ATTESTED~~



**VAKALAT NAMA**

(60)

NO. \_\_\_\_\_/20

IN THE COURT OF KP Service Tribunal, Peshawar.

Bilal Said

(Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Revenue Dept.

(Respondent)  
(Defendant)

I/We, ~~DA~~ Bilal Said (Appellant)

Do hereby appoint and constitute **M. Asif Yousafzai, Advocate Supreme Court Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated \_\_\_\_\_/20

  
\_\_\_\_\_  
(CLIENT)

ACCEPTED



**M. ASIF YOUSAFZAI**  
*Advocate Supreme Court Peshawar.*

&

**TAIMUR ALI KHAN**  
*Advocate High Court, Peshawar*

&

  
**SYED NOMAN ALI BUKHARI**  
*Advocate High Court*

&

**SHAHKAR KHAN YOUSAFZAI**  
*Advocate.*

**OFFICE:**

Room # FR-8, 4<sup>th</sup> Floor,  
Bilour Plaza, Peshawar,  
Cantt: Peshawar

**BEFORE THE COURT OF SERVICES TRIBUNAL GOVT OF KHYBER  
PAKHTUNKHWA PESHAWAR**

**SERVICE APPEAL NO:7141/2021**

Bilal Said Ex Girdawar..... Appellant

**VERSUS.**

Senior Member Board of Revenue Peshawar & Others.....Respondent)

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5	Office Order No:6786 dated 05-05-2021	"C"	12
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①

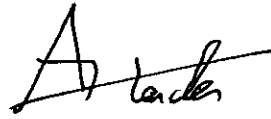
**OFFICE OF THE DEPUTY COMMISSIONER, DISTRICT  
DIR LOWER.**

No. 33019 / Lit :

Dated Timergara the, 28 /12/2021.

**AUTHORITY.**

Litigation Assistant of this office is hereby authorized and deputed to attend the office of *Advocate General, Services Tribunal Peshawar* for vetting of comments from AAG, Services Tribunal and also to get sign the same from the worthy Senior Member Board of Revenue, and Commissioner Malakand Division, at Saidu Sharif Swat and then after to file in the Court of Services Tribunal Peshawar in case service appeal No.7141/2021 titled Bilal Said ex- Girdawar v/s Senior Member Board of Revenue, Peshawar on 29-12-2021 on behalf of the undersigned.



DEPUTY COMMISSIONER,  
DIR LOWER.

No. 33019-23 / Lit:

*Copy forwarded to*

1. The Advocate General, Services Tribunal, Govt of Khyber Pakhtunkhwa Peshawar with the request to vet the comments in the above case.
2. The Registrar Services Tribunal Govt: of Khyber Pakhtunkhwa Peshawar for information and necessary action please.
3. The Assistant Secretary (Establishment), Govt of Khyber Pakhtunkhwa, Revenue & Estate Department Peshawar with the request to get sign the comments from the worthy Senior Member Board of Revenue, and be returned to the representative of this office for filing in the court concerned before the date of hearing i.e 13-01-2022
4. The Assistant to Commissioner (R/G) Malakand Division, at Saidu Sharif Swat with the request to get sign of the comments from the worthy Commissioner Malakand Division, for further filing in the Honorable Court.
5. The Official concerned with the advise to ensure filing of the comments before the next date of hearing in the Honorable Court.



DEPUTY COMMISSIONER,  
DIR LOWER.

*28/12*

(2)

**IN THE COURT OF SERVICES TRIBUNAL PESHAWAR.**

Service Appeal No. 7141/2021

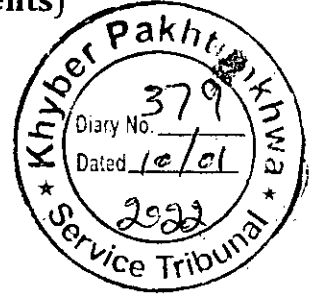
Mr. Bilal Said ..... (Petitioner)

**VERSUS**

Senior Member Board of Revenue etc ..... (Respondents)

**Respectfully Submitted:**

Para wise Comments on behalf of respondents 1 to 3 are as under:



**PRELIMINARY OBJECTION:**

1. That no fundamental right of the appellant has been infringed.
2. That the appellant has got no cause of action.
3. That the appellant has not come to this Honorable Court with clean hands.
4. The property being state property has been identified as private property of Nawab Muhammad Shah Khesrao and loss of billions has been given to the state.
5. That the present appeal is barred for mis joinder and non joinder of necessary parties.
6. That the appeal of appellant is badly time barred.

**ON FACTS:**

1. Correct to the extent that the appellant was appointed as patwari in the office of respondent No.03 and later on was promoted as Tehsil Office Kanungo on the basis of seniority.
2. Correct to the extent that the Honorable Peshawar High Court has directed the respondent No.03 to identify the personal property of Nawab Muhammad Shah Khesrao in light of notification No.10/16-SOTA/II/72/1522 dated 15-09-1972 vide order dated 28-01-2010 and 11-02-2014 passed in the writ petitions No.904/2009 and 2985/2010 respectively. In compliance to the order, the demarcation reports have been prepared by the Tehsildar Balambat and the Revenue Staff, which have been submitted in the Honorable Peshawar High Court Peshawar but in the above mentioned demarcation reports the state property notified vide Notification No. 10/16-SOTA/II/72/1520 dated 15-09-1972 was protected.

Later on, the legal heirs of Nawab filed COC No.411/2014 against the Govt in the Honorable Peshawar High Court and vide order dated 28-02-2018, the Honorable Court once again directed the respondents to identify the personal property of Nawab in light of Notification No. 10/16-SOTA/II/72/1522 dated 15-09-1972 and submit compliance report within three months. In light of the said order the Revenue Officers of Tehsil Timergara, Balambat and Adenzai were directed time and again by the Respondent No.03 for compliance of the Honorable Court's order dated 28-02-2018. In compliance the Tehsildar Adenzai submitted his demarcation report which was filed in the Honorable Peshawar High Court on 08-10-2019 and similarly the Tehsildar Timergara submitted his demarcation report which was filed on 22-02-2020 in the Honorable Peshawar High Court while the report of Tehsildar Balambat was awaited. The Tehsildar Balambat was directed time and again to submit compliance report so as to comply with the orders of the Honorable Court but till now the report has not been submitted. The COC No.411/2014 was argued on 25-02-2020 and the Honorable Court disposed off the COC vide order dated 25-02-2020 (Annex-A) with the observations that if the parties have got any reservation / grievance against the proceedings conducted by the respondents then they may challenge the validity of the same before the proper forum available to them. After disposal of the COC vide order dated 25-02-2020, all the previous orders passed during the pendency of the COC including order dated 28-02-2018 have legally been superseded/become infructuous. Later on the District Attorney vide letter dated 30-11-2020 complained against the petitioner and other Revenue staff clearly stating that they have filed their statement in case Niaz Muhammad v/s Govt against the Govt due to which a precious state property has been decided in favor of Niaz Muhammad. In light of the complaint an inquiry was conducted by A.A.C (Rev) and A.D.C Dir Lower who recommended the appellant including others for major penalty. Similarly, vide letter No.955 dated 16-04-2021 (Annex- B), the AC Timergara complained that the Tehsildar Balambat and other Revenue staff has shown the state property notified vide DCR-105, notification No.1520 dated 15-09-1972 as personal property of Nawab.

For knowing the factual position, a committee of Revenue Officers / Officials was constituted vide order No.6787-95 dated 05-05-2021 (Annex-C) to inquire into the matter whether the demarcation / execution carried out by the Tehsildar Balambat has been made on merit or the state land notified vide notification No.1520 dated 15-09-1972 has wrongly been demarcated. The Committee after thorough examination of record and reconciliation of record on spot, reported that the Tehsildar Balambat and his Revenue staff including the petitioner have violated the boundaries of state land notified vide notification No.1520 dated 15-09-1972, DCR-105 (Annex-D). Due to their wrong demarcation the state land has been affected badly.

3. Correct to the extent that the Tehsildar Balambat was directed for implementation of the judgment of Peshawar High Court Peshawar according to the direction of Honorable High Court but he was directed time and again that the state land notified vide notification No. 1520 dated 15-09-1972 and different DCRS may not be touched during the course of implementation but they did not do so and have given state land to the private person namely Niaz Muhammad.
4. Correct to the extent that one Mr. Niaz Muhammad encroached upon the limits of state land and the Govt issued notice to him. Aggrieved by it Niaz Muhammad filed Civil Suit in the court of Senior Civil Judge. In the said case the appellant along with Tehsildar Balambat and other Revenue staff have recorded their wrong statements, against the Govt. Resultantly, the case was decided against the Govt in light of their statements but the Govt had filed appeal in the Court of District & Sessions Judge Dir Lower.
5. Pertains to record.
6. Pertains to record.
7. Pertains to record.
8. Incorrect. Proper inquiry was conducted and chance of personal hearing was given to the petitioners by the inquiry officers to record their statements and provide proofs in their support but they badly failed and could not satisfy the inquiry officers that on whose order they have given the state land to the legal heirs of Nawab Muhammad Shah Khesrao. Therefore, the respondent No.03 in light of the inquiry and ground reality/facts has dismissed the appellant and

5

other officials. They were not only entitled for major penalty but are also punishable under PPC too.

9. Incorrect. Proper inquiry has been conducted, proper personal hearing chance has not only been given by the respondent No.03 before passing order dated 29-04-2021 but the respondent No.02 (Commissioner Malakand Division) has also given them proper hearing chance, which is crystal clear from para No.03 of the order dated 08-07-2021, wherein it has clearly been incorporated that **"the para wise comments submitted by the Deputy Commissioner Dir Lower along with case file perused. From perusal of the record and personal hearing of appellant, this court reached to conclusion that appeal of the appellant is meritless as he badly failed to convince this court"**, hence their objection regarding non provision of chance of personal hearing is incorrect.

10. Pertains to record.

11. Incorrect.

**GROUNDS:**

- a. Incorrect. Proper inquiry has been conducted and on the basis of recommendations disciplinary action has been taken under the E&D rules.
- b. Relates to record.
- c. Relates to record.
- d. Relates to record.
- e. No right of the appellant has been infringed but has been treated according to law and after proper inquiry it has been proved that the petitioner including other partners were guilty and entitled to get major penalty of dismissal.
- f. Proper chance of personal hearing and recording their statements etc has been given to the appellant for Knowing of their contention in the subject matter but they badly failed to defend their stance and to prove themselves as innocent in the scandal against the Govt properties.

6

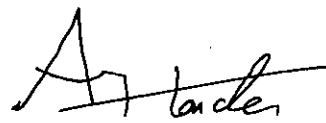
- g. Pertains to record.
- h. Incorrect. In light of the written complaint of District Attorney that they have given wrong statements against the Govt due to which losses of billions of rupees of state land have been met by the Govt in the Civil Court, to which inquiry was conducted and it was proved that they have been found guilty of favoring a private individual against the state interest, due to which the precious state land was decided against the Govt.
- i. Incorrect as explained at para "H".
- j. No comments. Relates to facts.
- k. No comments.
- l. No comments.
- m. No comments.
- n. As explained at para 2 above.
- o. The para is totally incorrect, based on presumptions and no order has been passed by the respondent No. 03 in this regard. Nothing is available on record regarding the annexure-N.
- p. That the respondents also seek permission to raise further points at the time of arguments.

**PRAYER:**

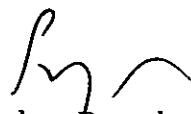
It is humbly prayed that on acceptance of the instant para wise comments, appeal of the appellant may kindly be dismissed.



Commissioner Malakand Division  
At Saidu Sharif, Swat.  
**(Respondent No. 02)**



Deputy Commissioner, Dir Lower  
**(Respondent No. 03)**



Senior Member Board of Revenue,  
Khyber Pakhtunkhwa Peshawar.  
**(Respondent No. 01)**



**BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER**  
**PAKHTUNKHWA PESHAWAR**

Service Appeal No. 7141/2021

Bilal Said Ex Girdawar

..... Appellant

VERSUS

Senior Member Board of Revenue & others

..... Respondent

**AFFIDAVIT**

I, Mr. Iqbal Alam S/o Muhammad Alam R/o Village Sado Tehsil Timergara District Dir Lower/Litigation Officer DC Office Dir Lower do hereby solemnly affirmed and declare that the contents of Para wise comments submitted by on behalf of answering respondents are true and correct to the best of my knowledge and belief and nothing has been concealed from this Tribunal.

*Identified by*

Defendant \_\_\_\_\_

*10/01/2022*  
Iqbal Alam

CNIC No. 15302-6199133-1

*for*  
Additional Advocate General  
Khyber Pakhtunkhwa  
Service Tribunal Peshawar

"A" (7)

JUDGMENT SHEET  
PESHAWAR HIGH COURT, PESHAWAR  
JUDICIAL DEPARTMENT

COC No.411-P/2014 in WP No.2985/2010 & WP  
No.475/2009

"Mst. Zuhra Falak Vs Sohail Khan, Deputy  
Commissioner, Dir Lower etc"



JUDGMENT

Date of hearing: 25.02.2020  
Petitioner (s) by: M/S Asif-ur-Rehman Yousafzai &  
Ahmad Ali, Advocates.  
Respondent (s) by: M/S Nasir Mahmood & Mukhtar  
Ahmad Maneri, Advocates.  
Official Respondent(s) by: Mr. Shumail Ahmad Butt, Advocate  
General alongwith Mr. Muhammad  
Shah, AC.

S M ATTIQUE SHAH, J. The present COC is arising  
out of the judgments passed in Writ Petition No.475-  
P/2009 and Writ Petition No.2985-P/2010 decided on  
28.1.2010 and 11.02.2014 respectively. It is worth  
mentioning that in both the Writ petitions the  
petitioner based her claim on the order of  
Government of Khyber Pakhtunkhwa, Home &  
Tribal Affairs Department, Peshawar dated 15<sup>th</sup>  
September, 2010, passed on her application wherein,  
she stated in para No.1 that the petitioner, out of the  
legacy of Ex-Ruler (Nawab of Dir) is entitled to the  
property situated in Tehsil, Balambat to the extent of  
623 Satta. Likewise in para No.4 she has stated that  
the respondents amalgamated her valuable property  
with the government property. The ibid application

*Affected*  
05.1.20



ATTESTED

EXAMINER  
Peshawar High Court

was made to DCO Peshawar and upon the said application, the Presiding Officer, Revenue Appellate Court No.3 issued letter dated 27.10.2007 to the DOR/Collector Dir Lower while directing him to consider the stance of the petitioner in light of para No.5 of her application. Subsequently, the present filed writ petition No.904/2009 before this Court which was decided on 28.01.2010 in the following manner:-

*"It is the Constitutional and Statutory duty of the respondents to redress the genuine grievance of the petitioner in accordance with law to locate and identify the property of the petitioner and that of the Government, to draw a line of demarcation between the two, so that her apprehension, that the property has been encroached upon by the Provincial Government, is redressed in a fair manner. It must be done strictly in the way as was directed by the Revenue Appellate Court-III, referred to above vide order dated 27.10.2007."*

Besides, this Court while disposing of writ petitions No.475/2009 & 2985/2010, vide judgment dated 11.02.2014 this Court, once again directed the respondents in the following words:-

*"Respondents are directed to finalize the proceedings by implementing order of this Court dated 28.01.2010, passed in WP No.904/2009, in letter and spirit, without any further delay and conclude the same within a period of two months, after*

*Attested*

*f*



ATTESTED

EXAMINER  
Peshawar High Court

providing proper hearing to all concerned including the petitioner. Respondents are further directed to submit final report to the Deputy Registrar (Judicial) of this Court within the stipulated period. The office is directed to provide one copy of this order to the worthy Senior Member, Board of Revenue, Khyber Pakhtunkhwa through learned Additional Advocate General for notice, necessary action and compliance."

2. Today, during the course of arguments, worthy Advocate General alongwith Assistant Commissioner Balambat, appeared before the Court and referred to the demarcation reports available on the record of the case and, stated at the bar that in the light of the ibid directions of this Court, the respondents have conducted the demarcation proceedings in accordance with the law and requested for dismissal of the present COC, which has served its purpose, which submission of the worthy AG was strongly rebutted by the learned counsel representing the parties, while stating that the proceedings had not been conducted in accordance with law applicable thereto.

3. This Court has examined the ibid judgment and order passed in the above referred writ petitions, as well as, the proceedings conducted by the authorities and, has arrived to the conclusion that the

Attested



ATTESTED

EXAMINER  
Peshawar High Court

ibid judgments/order of this Court has been implemented by the latter, however, If the parties have got any reservation and grievance against the proceedings conducted by the respondents then, they could challenge the validity of the same before the appropriate and proper forum available to them under the law.

In view of the above, the present COC has served its purpose, and is thus, disposed of accordingly.

ANNOUNCED.  
25.02.2020.

*[Signature]*  
JUDGE

*[Signature]*  
JUDGE

DB

Hon'ble Mr. Justice Lal Jan Khattak  
Hon'ble Mr. Justice S M Attique Shah

*[Signature]*

TO BE TRUE COPY

EXAMINED  
By the Officer in Charge  
of the Bhabhushi Office

15-JUL 2020

*[Signature]*

*[Signature]*



No. 1650  
Date of Presentation of Application 15/7/2020  
No of Pages 6  
Copying fee \_\_\_\_\_  
Total 26  
Date of Preparation of Copy 15/7/2020  
Date of Delivery of Copy 15/7/2020  
Received By Qud Zaidi

OFFICE OF THE  
ASSISTANT COMMISSIONER  
TIMERGARA DIR LOWER

No. 955 /COC / AC (T)  
Dated Timergara the 16 / 04/2021



To,  
The Deputy Commissioner  
Dir Lower

Subject: APPLICATION FOR FINALIZATION OF EXECUTION IN LIGHT OF PESHAWAR HIGH COURT BENCH/DARUL QAZA SWAT VIDE ORDER DATE: 28/02/2018 IN COC NO. 411/2014 TITLED MST: ZOHIRA FALAK V/S SOHAIL KHAN DEPUTY COMMISSIONER DIR LOWER AND OTHERS.

Memo:

Please refer to your good office letter No. 2997/PS dated 23/06/2020 on the subject noted above.

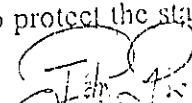
The same was forwarded to the Tehsildar Balambat with the directions that demarcation report may strictly be made according to the directions of Honorable Court subject to protection of state land during the course of demarcation. A certificate was also sought from Tehsildar Balambat that the state land is not affected during the process.

In response the Tehsildar Balambat vide his letter No. 04/1-Revenue dated 01/01/2021 forwarded an old certificate dated 26/09/2019 which does not relate to the issue in hand, hence the Tehsildar Balambat was directed vide this office letter No. 15/COC dated 04/01/2021 (copy enclosed), in order to ensure protection of the state land notified vide Notification No. 1520 dated 15/09/1972 and similarly through different DCR files, TORs were framed therein which are clear in the attached letter.

In compliance the Tehsildar Balambat vide letter No. 186 dated 12/04/2021 has forwarded the compliance report, perusal of which indicates that the Tehsildar Balambat and his Revenue Staff instead of submitting demarcation report for approval they have made execution without taking approval from the competent authority i.e. Deputy Commissioner and handed over possession of the property measuring 48 Kanals to the legal heirs of Ex-Nawab Dir through their Power of Attorneys. Proper receipt of 48 Kanals of land has also been obtained from Power of Attorneys of Nawab Family.

It is brought into your kind notice that the TORs framed vide this office letter No. 15/COC dated 04/01/2021 have not been followed by the Tehsildar Balambat and despite submitting of demarcation report for taking approval of your good office for execution, execution has been carried out straight away resulting in concerns that the state land notified vide Notification No. 1520 dated 15/09/1972 and DCR No. 105 has not been protected and might be badly affected due to the above proceedings initiated by the Tehsildar Balambat. Therefore, in order to ensure protection of the state land in the said area it is recommended that the execution made by Tehsildar Balambat looks ambiguous and fresh demarcation proceedings may be carried out as per directions of the Honorable Peshawar High Court Bench Darul Qaza Swat, to identify, locate and draw a line of demarcation between state properties and properties of the applicants (Legal Heirs of Ex-Nawab).

Moreover, an inquiry may be initiated in the matter so as not only to protect the state properties from any loss but to discourage such practices in future.

  
Assistant Commissioner

OFFICE ORDER

In pursuance of letter No.955/COC/AC (T) dated 16-04-2021 (copy attached)

The following committee under the supervision of Additional Assistant Commissioner (Revenue) Dir Lower at Timergara is hereby constituted to probe in to the matter whether the demarcation/execution carried out by Tehsildar Balambat mentioned in the attached letter of AC Timergara has been made on merit or the state land Notified vide Notification No.1520 dated 15-09-1972 and different DCRs has been protected during the course of implementation of honorable court order or otherwise.

- |  |          |
|--|----------|
| 1. Tehsildar Samarbagh                                   | Chairman |
| 2. Mr. Saeed Ur Rahman Office Kanungo                    | Member   |
| 3. Mr. Muhammad Younas NTOK                              | Member   |
| 4. Mr. Imran Khan NTOK                                   | Member   |
| 5. Mr. Altaf Hussain NTOK                                | Member   |
| 6. Any other co-opted member (if needed to the Chairman) | Member   |

Your report should reach to this office within 15 days complete from each angle.

*A. T. T. T.*  
Deputy Commissioner  
Dir Lower

No. 6787-95 /Litt:

Copy forwarded to the:

1. Additional Assistant Commissioner (Revenue) Dir Lower at Timergara for information and with the request to submit report of the committee in the scheduled time positively.
2. Tehsildar Samarbagh
3. Officials concerned for compliance.  
For compliance.
4. Assistant Commissioner Timergara.
5. Tehsildar Balambat

They are directed to provide complete record of the subject issue to the committee during the course of enquiry.

*A. T. T. T.*  
Deputy Commissioner  
Dir Lower



**DEMARICATION REPORT**

(13) (D)

In compliance to office order No. 6787-95/Lit dated 05-05-2021 following Committee members visited the spot at Balambat Tehsil Balambat. We have examined all Revenue record i.e. DCRs Nos. 105, 174, 109 and 138 in detail as per boundaries of these DCRs.

As a result we Committee members unanimously prepared report on dated 07-06-2021 and submitted to your kind office for perusal and further necessary action. The same is returned with your kind direction on dated 08-06-2021. In response all Committee members re-visited the said spot alongwith record.

**BRIEF HISTORY**

The land under enquiry has been declared as state property vide DCR 105 by Federal Land Commission having boundaries at North land of Andheray, at South attached to road of Jandool Maidan Bridge at East Sindh, at West Tehsil Colony and the boundaries of the Lalmi Land are at East Sindh, West Road Jandool, North Road Bridge Colony and at South Road Jandool – Joye Kass, in which some land in possession of Ex-state servants and some portion are laying vacant while on remaining land Govt have constructed Public offices i.e. District Civil Courts, Deputy Commissioner office and residential House of Deputy Commissioner Dir Lower etc.

It is pertinent to mention here that inside the above boundaries some land have been encroached by different individuals who have constructed buildings, Houses etc over the said land.

In the year 2009 Mst. Zuhra Falak was filed writ petition No. 904/2009 in Peshawar High Court as titled Mst. Zuhra Falak V/S Govt of NWFP and others in which orders were passed on 28-01-2010. Being aggrieved from implementation of the said order, another writ petition No. 2985/2010 titled Mst. Zuhra Falak V/S Sohail Khan Deputy Commissioner Dir Lower and others was filed. The High Court issued order on dated 11-02-2014 that finalize the proceeding by implementing order of this Court dated 28-01-2010 passed in writ petition No. 904/2009 in letter and spirit.

Later on in the year 2014 legal heirs of Ex-Nawab of Dir submitted an application of contempt of Court No. 411/2014 on which detail orders were given on 28-02-2018 is as under.

“The Deputy Commissioner Dir Lower and Dir Upper are directed to appoint the officers who are well conversant with the subject matter to finally decide the issues involved and handing over physical possession to the concerned parties with in a period of three month in the instant matters, while the time fixed by the August Supreme Court of Pakistan for implementing the judgement shall also be followed in letter and spirit” and the COC has been decided on 25-02-2020.

The petitioners i.e. Mst. Almas Begum and Karim Khan (legal heirs of Nawab) submitted an application to Worthy Commissioner Malakand Division dated 17-06-2020 in order to get their properties the Worthy Commissioner Malakand marked it to the Deputy Commissioner Dir Lower for legal action and onward forwarded the same to the field revenue staff of Tehsil Balambat for further action.

In compliance to the above application the field Revenue staff of Tehsil Balambat prepared computerized map of the land at Balambat which comes 174 Kanals and 17 Marlas and submitted detail report on 07-09-2020 regarding demarcation of the said land.

It is pertinent to mention here that the said land measuring 174 Kanals and 17 Marlas has been declared as State property vide DCR No. 105, 174, 109 and 138 of Notification 1520 dated 15-09-1972.

Tehsildar Balambat sent the said demarcation report dated 07-09-2020 to Assistant Commissioner Timergara vide office letter 174/1-Rev dated 07-09-2020 for advice/guidance for execution of the said land and in response, Assistant Commissioner Timergara vide his office letter No. 2686/COC/AC(T) dated 30-12-2020 and letter No. 15/COC/AC(T) dated 04-01-2021 returned the report with direction that demarcation report may strictly



Attested



be made according to the direction of Honourable Peshawar High Court while protection of the State land be ensured during demarcation.


To act on the above quoted letters, the field Revenue staff of Tehsil Balambat handed over physical possession of land measuring 48 Satta (48 Kanal), which is mentioned at serial No. 89 and 91 of the schedule-II of Notification 1522 dated 15-09-1972 as personal property of Ex-Nawab of Dir to Mst: Alams Begum and Muhammad Karim etc through their attorneys (within boundaries of DCR 105) vide his report 06-01-2021. In this regard written statement of the attorney regarding execution was also recorded on 06-01-2021.

CONCLUSION


The subject land handed over by <sup>field</sup> ~~filed~~ Revenue staff situated within the boundaries of DCR 105 of Notification 1520 dated 15-09-1972, due to which the boundaries of DCR 105 has been affected/violated.


Submitted for perusal and further action as deem fit please.


  
Tehsildar Samar Bhatt  
Chairman Committee


  
Tehsildar Lal Qilla/DK  
10/06/2021

  
Tahir Hassan Kanungo

  
Imran Khan NTOK

  
Rahim Said TRA  
10/06/2021

  
Muhammad Younas NTOK  
10-6-2021

  
Altaf Hussain NTOK  
10/06/2021

Attended  
x



15

**OFFICE OF THE  
DISTRICT ATTORNEY DIR LOWER AT TIMERGARA  
COURT MATTER MOST URGENT**

No 1220-22 /DA/Dir/Lower

Dated: 30 / 11 / 2020

✓ To

The Deputy Commissioner,  
Dir Lower at Timergara.

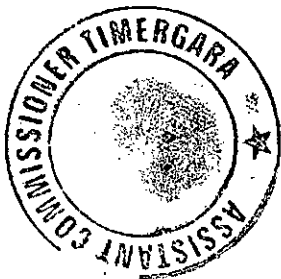
Subject: **NIAZ MUHAMMAD VS GOVERNMENT.**

Respected Sir,

That the above title suit was decided summarily on 20-11-2020 by Civil Judge IV against the Government. During the trial of said suit, the Tehsildar Balambat Hazrat Hussain, Qanungu Bilal Syed and Anwar Zaib, Aminuddin, Alluddin Patwarian recorded their joint statement in favour of plaintiff Niaz Muhammad, and on their statement the civil Judge Decree the suit without recording any detail further evidence. All the above mentioned revenue officials also recorded no objection in the court if the suit property is declared the property of plaintiff. So whether they were authorized to do so and whether the Government intends to file an Appeal against said judgment Dated 20-11-2020.

Please kindly intimate this Office at the earliest.

*Attested*



*[Signature]*  
**ARSHAD ALAM**  
Flight lieutenant ®  
District Attorney,  
Dir Lower at Timergara

Endst: \_\_\_\_\_/DA/Dir/Lower

Date: \_\_\_\_\_/\_\_\_\_/2020

Copy forwarded to:

1. The Secretary Law & Human Rights Department Khyber Pakhtunkhwa Peshawar.
2. The Assistant Commissioner Dir Lower at Timergara.

**ARSHAD ALAM**  
Flight lieutenant ®  
District Attorney,  
Dir Lower at Timergara

*1/10/2020*  
*Recd*  
*DC*  
*12-2020*



16

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OFFICE OF THE  
ADDITIONAL DEPUTY COMMISSIONER  
DIR LOWER

No. 8198 /ADC, 05 /04/2021

No. 0945-92500137 - adcdirlower@gmail.com 0945-9250001 adcdirlower@gmail.com

To,

The Deputy Commissioner, Dir Lower.

**Subject:** INQUIRY REPORT

**Memo:**

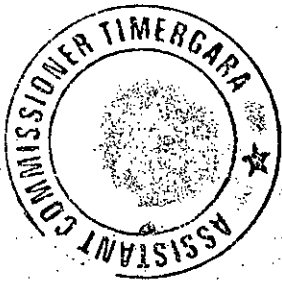
Reference your office order No.3147/Lit, dated 01-03-2021.

The inquiry conducted by the Additional Assistant Commissioner (Rev), Timergara alongwith complete file thoroughly perused, which transpires that due to flimsy joint statement given by the Revenue Field Staff i.e Mr. Hazrat Hussain Tehsildar, Mr. Bilal Said Kanungo, Mr. Anwar Zaib Kanungo, Mr. Amin uddin Patwari and Mr. Alauddin Patwari, in the court of Civil Judge-IV, the government has incurred an irreparable loss to the state land.

Therefore, the undersigned suggests/recommends that major penalty be imposed upon them. So far the Tehsildar Mr. Hazrat Hussain is concerned the same does not come in the purview of Deputy Commissioner, therefore, he may be reported to the Senior Member Board of Revenue, Peshawar along with the copy of the inquiry for further proceeding against him accordingly.

*Handwritten signature*  
*Attest*

*Handwritten signature*  
Additional Deputy Commissioner,  
Dir Lower.



*Faint handwritten notes and stamps at the bottom of the page*



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OFFICE OF THE  
ADDITIONAL ASSISTANT COMMISSIONER  
(REVENUE) TIMERGARA DIR LOWER

No. 29

Dated Timergara the 22/02/2021

dcdirlower@gmail.com deputy Commissioner Dir Lower @dcdirlower 0945-9250001

The Deputy Commissioner,  
Dir Lower.

Subject:- **ENQUIRY REPORT.**

Memo:

Kindly refer to your directions dated 18-02-2021 with regards to recommendations in respect of enquiry report submitted vide this office No.304/Reader/AAC (Rev) dated 28-12-2020.

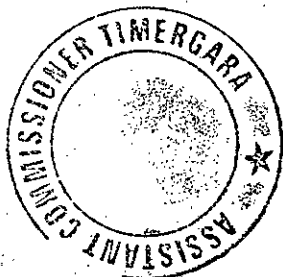
Recommendations are as follows:-

**RECOMMENDATIONS**

As already concluded vide aforementioned report that it has been established, the defendants did not authorize the officials under enquiry to record statement in the learned trial court on their behalf and recording of their statement in the learned trial court tantamount to an unauthorized statement and misconduct on their part. It is therefore suggested that further proceedings in light of the prevailing E&D Rules may be initiated against the concerned officials.

Submitted please.

*[Signature]*  
Additional Assistant Commissioner (Rev),  
Timergara Dir Lower.



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**OFFICE OF THE ADDITIONAL ASSISTANT COMMISSIONER (REV)**  
**TIMERGARA DIR LOWER.**

NO. 304 / Reader/AAC (Rev)  
Dated: 28 / 12 / 2020

**ENQUIRY REPORT.**

This is with reference to the office order of the worthy Deputy Commissioner Dir Lower bearing End No 23074-77 dated 08-12-2020 and letter of District attorney vide No. 1220-22 dated 30-11-2020, the undersigned was appointed as inquiry officer to conduct inquiry in light of the letter ibid by the District attorney.

This inquiry report purports to dispose of the matter which pertains to:

The allegation against the then Tehsildar Balambat now working as Tehsildar Adenzai, Bilal Said Kanungo, Anwar Zaib Kanungo, Amin Ud Din and Alla Ud Din Patwaris, that they all recorded their joint statement in the Court of learned Civil Judge IV in case titled Niaz Mohammad V/S Government in favour of plaintiff against the interest of government.

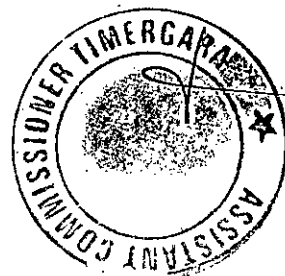
*Handwritten signature/initials*

**FACTS.**

Brief facts leading to the instant enquiry are that one Niaz Mohammad s/o Haji Nazeer Mohammad instituted a civil suit before the Learned Judge Timergara, wherein he took plea that he is the owner of suit property measuring 12 Satta, the boundaries of which are fully detailed in the plaint on the basis of sale deed dated 22.10.2008 and registered deed dated 2.2.2009, whereby he purchased the said property from Mst: Zohra Falak d/o Ex- Nawab of Dir Mohammad Shah Khisro defendant No-6. In the said suit Tehsildar Balambat alongwith other Government Functionaries of Administration Department as well as Revenue Department were made party.

The defendants No 1--- 5 after receiving process through staff put their appearance in the Learned trial court through their representative and contested the suit by filing written statement and at the same time they also submitted a separate application dated 11.01.2016 for return of plaint under order 7 rule 10 of CPC, 1908 due to non jurisdiction of civil court. The said application was accepted by the Learned trial court and returned the plaint to the plaintiff vide order dated 25.04.2016 and against the said order plaintiff preferred an appeal in the court of Learned Additional District & Sessions Judge Timergara, who accepted the appeal vide order dated 14.11.2017 and set aside the decision of Learned Civil Judge and the case was remanded back to the Learned Civil Judge for decision on merits.

*Attested*



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During proceedings before the learned trial court after remand of the case the officials under enquiry appeared before the trial court and recorded their joint statement on 12.10.2020. In the light of said statement the learned trial court granted decree in favour of plaintiff and decided the suit summarily on 20.11.2020.

Feeling aggrieved from the said order the learned Attorney Dir Lower vide letter No.1220-22/DA/Dir Lower dated 30-11-2020 addressed to the worthy Deputy Commissioner Dir Lower wherein he took stance that the officials under enquiry recorded their statement before the learned trial court, so whether they were authorized to do so and whether the court intends to file an appeal against the said judgment.

In response to the said letter of District Attorney the worthy Deputy Commissioner issued office order ibid through which the undersigned was appointed as Inquiry Officer to probe into the matter and fix responsibility and submission of recommendations.

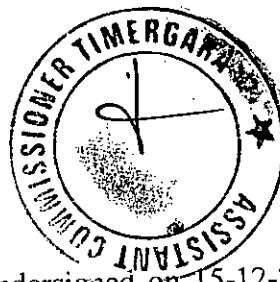
#### ENQUIRY PROCEEDINGS.

For the conduct of enquiry the undersigned called on the following concerned revenue officials for submission of their stance alongwith relevant record:-

1. Hazrat Husain the then Tehsildar Balambat now working as Tehsildar Adenzai
2. Mr. Bilal Said Kanungo Tehsil Office.
3. Mr. Anwar Zaib Kanungo Tehsil Office.
4. Mr. Amin Ud Din Patwari.
5. Mr. Alla Ud Din Patwari.

Attested

3/3/20



They all mentioned above attended the office of the undersigned on 15-12-2020 and sought time for preparing themselves as at that time there was no record with them. As the request was genuine so honored. They all were directed to appear on 22-12-2020 alongwith complete record for recording their statements. On 22.12.2020 they appeared and submitted their joint written stance and other relevant documents, which were carefully perused.

The officials under enquiry in their written stance depend mostly related to the decisions of different forums. However from whole stance they did not bring any written/verbal authorization from any competent authority to record their joint statement regarding the subject matter in the trial court. As the joint statement of the officials under enquiry leads to the decision of civil suit against the defendants including the Worthy Chief Secretary, Khyber Pakhtunkhwa, Worthy Secretary Board of Revenue, Worthy Deputy Commissioner alongwith others. So they were supposed to firstly obtain the sanction of competent authority/defendants for recording any statement on their behalf and then record the statement, because their joint statement was totally in conflict with the plea of defendants in written statement as well as in the memorandum of appeal preferred by the defendants appellants through District Attorney against the order dated 20.11.2020 of learned trial court.

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Further no proof was provided by the officials under enquiry that before recording any statement in the learned trial court whether they discussed the matter with the litigation cell of the office of Worthy Deputy Commissioner, Dir Lower or whether any opinion was sought from the District Attorney or his representative.

**CONCLUSION & RECOMMENDATIONS.**

In the light of above observations, it is established that the defendants did not authorize the officials under enquiry to record statement in the learned trial court on their behalf. As the matter is till yet subjudice before the civil court, so the fate of demarcation proceedings regarding the property of Nawab of Dir can betterly be decided by the competent forum. As apparently the recording of statement by the officials under enquiry before the learned trial court during which they denied any right of defendants/Govt: upon the suit property tantamount to an unauthorized statement. Therefore they may be proceeded under the law, if deems appropriate.

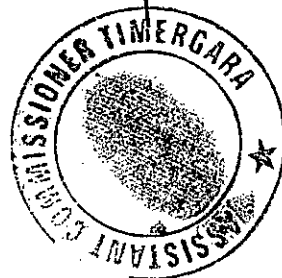
Enquiry report along with relevant documents are submitted for your kind perusal, please.

**Encl: As above**

*[Signature]*  
Additional Assistant Commissioner (Rev)  
Dir Lower at Timergara

28/12/2020

*Attected*



*Assistant Litigation  
for f/n put up*

*[Signature]*  
28/12/20



Explanation Folder

21

OFFICE OF THE  
DEPUTY COMMISSIONER  
DIR LOWER

No. 6430 /Estt:  
Dated Timergara the 29 /04/2021

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dcdirlower@gmail.com Deputy Commissioner Dir Lower @dcdirlower 0945-9250001

**OFFICE ORDER**

Whereas, the District Attorney Dir Lower vide letter No. 1220-22/DA/Dir/Lower dated 30/11/2020 complained against the following Revenue Field Staff that they have given their joint statement in case titled "Niaz Muhammad VS Government of Khyber Pakhtunkhwa and others" in the Court of Civil Judge-IV Timergara against the government. Due to which the government sustained huge loss and decided the case against the government .

1. Mr. Aminuddin Kanungo
2. Mr. Bilal Said, Kanungo.
3. Mr. Anwar Zeb, Tehsil Accountant.
4. Mr. Alauddin, Patwari.

Whereas, the Additional Assistant Commissioner, Revenue, was appointed as inquiry officer in the matter vide No. 23074-77/Lit dated 8/12/2020 and he after thoroughly inquired and submit his report/inquiry vide No. 304/Reader/AAC (Rev) dated 28/12/2020 and recommended that they may be proceeded under the law on the grounds that the above Revenue field staff have given "Unauthorized Statement" to the Court due to which the case has been decided against the government.

Whereas, the inquiry officer (AAC Revenue) has not proposed for minor/major penalty in his inquiry report and in the mean while he was transferred from this District to Mansehra Division, therefore, the Additional Deputy Commissioner (Admn:), Dir Lower was again appointed as inquiry officer vide order No. 3148-51 dated 01/03/2021. Accordingly the Additional Deputy Commissioner (Admn:) Dir Lower recommended major penalty for the above named Revenue Field Staff on the grounds that due to their flimsy joint statement the government has incurred an irreparable loss.

Therefore, in light of the forgoing, the undersigned as a Competent Authority under the rule-4 (iii) of the E&D rules, 2011 do hereby impose major penalty upon the above defaulting Revenue Field Staff i.e Mr. Aminuddin, Kanungo, Mr. Bilal Said, Kanungo, Mr. Anwar Zeb, Tehsil Accountant and Mr. Alauddin, Patwari by dismissal from service with immediate effect.

*Arif Laidar*

*Attested*

Deputy Commissioner  
Dir Lower

No. 6431 - 351 /Estt:

Copy forwarded for information to:-

- 1- The Additional Deputy Commissioner, (Admn:), Dir Lower
- 2- The District Attorney Dir Lower with refer to above
- 3- The District Accounts Officer Dir Lower
- 4- The Accountant, Local Office.
- 5- Revenue Field Staff concerned.



*Arif Laidar*

Deputy Commissioner,  
Dir Lower



لیدالت صاحب اکبر علی سولہ عم علاقہ قافی صاحب روڈ انڈیا گڑھ  
 لیدالت جناب سید سولہ عم / اعلیٰ علاقہ قافی صاحب نمبر ۱۰  
 نیاز خدو در حاجی لظیر خدو ساکن زنگھڑے تحصیل بدست  
 ضلع دریا سینگھ

0-16  
 25-4-16  
 دعویٰ عدالت  
 مدعی کریمت  
 الحکم واسین  
 شد  
 27<sup>04</sup>/<sub>016</sub>

نام  
 (1) تحصیلدار بدست تمام بدست ضلع دریا سینگھ (بی اسٹنٹ  
 عشر صاحب نمبر ۱۰ تحصیل نمبر ۱۰ ضلع دریا سینگھ (بی ڈی پی  
 عشر ضلع دریا سینگھ تمام نمبر ۱۰ (4) حکومت صدر ۲۲  
 بذریعہ چیف سکرٹری تمام پشاور (بی بورڈ آف ریونیو ذریعہ سکرٹری تمام پشاور  
 بی حماة ظہیر ملک ڈپٹی سرفراز خان ساکن در تحصیل دریا سینگھ بدست تمام

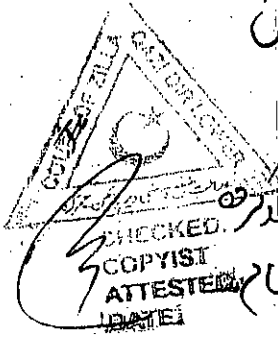
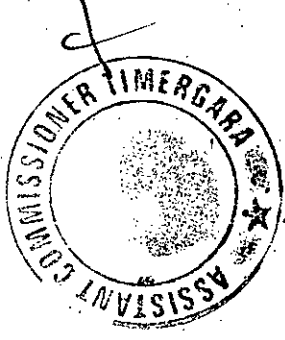
Attested

دعویٰ مراد صدقہ ڈگری

حکم امتناعی دہائی مرصوف مدعا علیہم بہ من مدعی کی زبردستی  
 جائیداد / آرائی قدرتی بارہ سہ فی صد حد واس فی سجاد  
 بنعلک خان تحصیل ربانی (۱۱) جنوباً دریا سینگھ (۱۱) لڑکا  
 خود مانو (۱۷) غرباً دریا سینگھ (۱۷) سجاد  
 بینام خدوہ ۲۲<sup>۱۰</sup>/<sub>۰۸</sub> دریا سینگھ ۲۲<sup>۰۲</sup>/<sub>۰۹</sub> آزدست  
 دریا سینگھ ۲۲<sup>۰۲</sup>/<sub>۰۹</sub> اور مدعا علیہم غنائی کو کوئی قانونی اور شرعی حق  
 حاصل نہیں ہے۔ یہ وہ من مدعی کی ملکیتی جائیداد با قبضہ و با تصرف میں  
 دخل مداخلت کر کے من مدعی کی قبضہ و تصرف میں ڈکاؤٹ ڈال  
 یا تعمیری کام و دیگر خالصتاً بندرغزہ کی تعمیر میں مزاحم ہو کر من  
 مدعی کو مستفید ہونے سے دواماً بازدار منع نہیں ہے۔

1  
 28-3-2015  
 All

Re-submitted  
 today. Be  
 placed on file  
 20/3/15



ص اور ڈگری تمام منسوفی اخطامات وغیرہ صادر شدہ و صادر شدہ  
 مدعا علیہم غنائی نسبت آرائی / جائیداد مذکورہ مندرجہ بینام  
 دریا سینگھ

ملکیت لغو کنوینٹ خاص و اختیار و اجازت ۲۰۰۵/۰۱  
 ۲۰۱۵

ماتے دہلی ضد بوم سے مراد وہ علاقہ جو (9) دفعہ مداخلت کرنے پر لوٹس  
 یعنی جو نے مراد وہ علاقہ ہے جس کے واسطے اس قانون کی مداخلت ضروری ہے اور  
 مداخلت خود اپنی اسوئے -

جناب عالی! مدنی ذیل عمر میں سال 1929ء

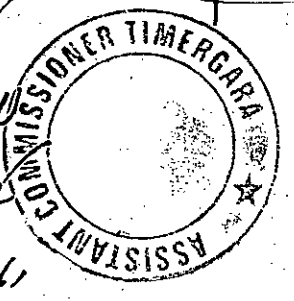
1۔ ایک مہری اصل ہندو دیہہ متذکرہ مالک ہے اور ایک مہری  
 ایک تالی شہری سوک قانون کی پاسداری پر مکمل یقین رکھتا

2۔ ایک مہری جائیداد متذکرہ مندرجہ دستاویز نمبر 22/10/22  
 مراد ہندو بوم کی مہری و کامل مالک ہے جو نے مندرجہ حدود  
 مہری دستاویز نمبر 2500000 رقم مبلغ 2500000 روپے خرید  
 کر بطریق قانون سے قانون درج طریقہ سے ایک مہری  
 2/29/22 دستاویز نمبر 22/10/22

Attested 3۔ یہی چونکہ جائیداد آزادی مذکورہ ماقبل چونکہ

0۔ آزادی مہریوں نے مہری نے لاکھوں روپے خرچ کر کے  
 28/1/28 مہری آزادی کا راز مہربانی اور بول بھی اس میں  
 نے دلوں میں کمی آزادی مذکورہ سے بہ مقدار و پیمانہ ضرورت

لاحق ہو کر مہری نے اس میں مختلف بیعنام حالت دیگر  
 ساتھ میں عمل میں لاکھوں روپے کی قیمت پر  
 مہری ضمانت ہو کر ہو کر ہو کر ہو کر ہو کر ہو کر ہو کر  
 مذکورہ میں / حال کان رہا ہے یہ ہیں۔ اور میں  
 آزادی سال 1947ء کی عظیم مہربانی آزادی مہریوں کے  
 ہے۔ بقولہ آزادی بیعنام حالت ہے



مہریوں میں مہریوں کے بعد از وہ جائیداد مذکورہ سے کافی مستفاد  
 ہوتی ہے لہذا مہریوں میں وہ مہریوں کے ہے۔

(10)

اسی طرح لاکھوں روپیہ فرج کر کے آرائی مذکورہ مندرجہ بیعنام پرانے  
 آبادی کا راز مندر بنائی ہے۔ مندرجہ آرائی سے کسی مستفید ہونے  
 کا خواہاں ہو کر دریا بند نہ کرے اور آرائی کی حیثیت بحال کرنے کیلئے قری  
 کام شروع کیا ہے۔ جسکی تناظر میں مدعا علیہم نے مورخہ  
 25/3/15 ایک لٹرو اور غیر قانونی اور بلا جواز نوٹس جاری کر کے  
 من مہدی نو جا بٹھاد فوراً مستفید ہونے میں رکاوٹ ڈالنا  
 شروع کیا۔ جس کے بعد کورین ہرگز حقداران و مجاز نہ ہیں۔

5۔ یہ کہ من مہدی چونکہ مذکورہ <sup>آرائی</sup> bona fide حقدار از دست گیری  
 و قانونی مانگ ملا کر کٹ غریبے، اور جس پر بعد از فرما لاکھوں روپیہ  
 فرج کر کے سرانے آباد کاری کا راز مندر بنائی گئی ہے۔ اور اسی طرح  
 دیگران کے ساتھ معلوم فقاری کی بنیاد پر بیعنام جات (رہنہ و زمین)  
 جن میں لائی جاکر برقع تعمیرات موجود ہیں۔ اور مذکورہ یعنی مالکان  
 دیگرتیں بند ہو کر دستفادہ حاصل کرتے چلے آ رہے ہیں۔ اور یوں <sup>علاقہ</sup> غلام

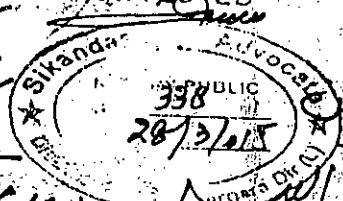
من مہدی کی اس حیثیت میں مذاہم ہونے کے درجے ہو کر من مہدی کو  
 بقیہ جا بٹھاد پر تعمیر سے منع کر رہے ہیں۔ جس کے بعد کورین ہرگز  
 قانوناً اور شرعاً حقداران نہ ہیں۔ لہذا ہر اس مذکورہ من مہدی  
 مدعا علیہم کو ہر چیز کو روک دیا گیا۔ کہ وہ غیر قانونی پتھکنڈوں / نوٹسز  
 کی اس میں من مہدی کی قانونی دہلیجی جا بٹھاد و تعمیر میں رکاوٹ  
 ڈالنے باز اور منع ہیں۔ تاہم بارہورد جملہ حیثیت کو مستثنیٰ سے مدعا علیہم

4۔ ہر کہ مالیت لفظ کی لکھتے ہیں اور اختیار نہایت مندرجہ عنوان غیر حقداروں کے لئے  
 محکم خدمات چھپانے کی جائیں۔ مندرجہ مذکورہ عدو و عدالت حقدار ہیم انور  
 عدالت حقداروں کو اختیار نہایت قابل ہے۔  
 بحالہ مالہ استیصال کے درجے میں مدعا علیہم خدمات اب  
 من مہدی پر صرف مدعا علیہم جاری ہے۔  
 من مہدی نے ہر حال میں نظر فرما کر اس میں کوئی حقدار نہیں

Attested



CHECKED  
 COPYIST  
 ATTESTED  
 DATE



حلف بیان  
 کرتا ہوں کہ  
 اس میں کوئی  
 حقدار نہیں



210

حکم نمبر 42

20/11/2020

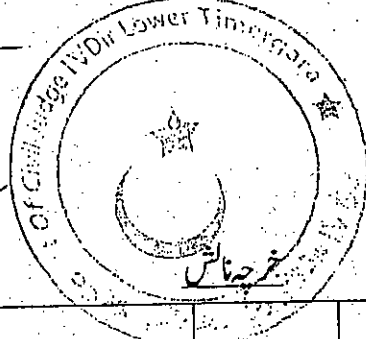
مدعی حاضر۔ مدعا علیہ نمبر 1 و نمائندہ برائے مدعا علیہم نمبر 2 تا 5 حاضر۔ بحث ساعت شد۔ مسل ملاحظہ شد۔  
 بروئے سرسری مفصل فیصلہ امروز مشتمل بر 04 صفحات، بحث و کلاء و ملاحظہ مسل سے عیاں ہے کہ  
 مذکورین (مدعا علیہم نمبر 1 تا 5) نے اپنا مشترکہ بیان رو برو عدالت قلمبند کیا ہے۔ جس میں مذکورین کا جائیداد متذعویہ کے  
 ملکیت و قبضہ بارے میں کوئی دعویٰ باقی نہیں رہا۔ جبکہ مدعا علیہا نمبر 6 نے بھی اپنے جواب دعویٰ میں موقوف مدعی کی بھرپور  
 تائید کی ہے۔ نیز مسل پر موجود ریکارڈ بھی واضح طور موقوف مدعی کی تائید کرتے ہیں۔  
 لہذا مذکورہ وجوہات کو مد نظر رکھتے ہوئے دعویٰ مدعی بحق مدعی برخلاف مدعا علیہم حسب استدعاء ڈگری کیا جاتا ہے۔  
 خرچہ بذمہ فریقین رکھا جاتا ہے۔ مسل بعد از ترتیب و تکمیل داخل دفتر ہو۔

حکم سنایا گیا۔

20/11/2020

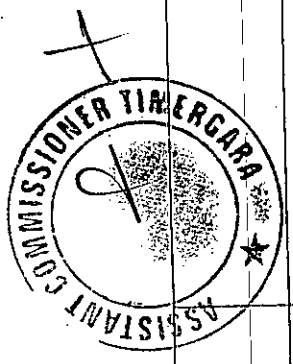
محمد جنید عالم

سول جج چہارم تیرگرہ ضلع دیرپائین



نمبر شمار	روپے	روپے
1	شامپ عرضی دعویٰ	شامپ مختیار نامہ
2	شامپ وکالت نامہ	شامپ وجہ ثبوت
3	خرچہ خورا کہ گواہان	مختار نامہ وکیل بشکل روپیہ
4	فیس اشتہار	خرچہ خورا کہ گواہان
5	فرد طلبانہ	فیس اہل کیشن
6	متفرق	اجراء حکم نامہ
7	رجسٹری و اخبار اشتہار	کورٹ فیس
	میزان	میزان

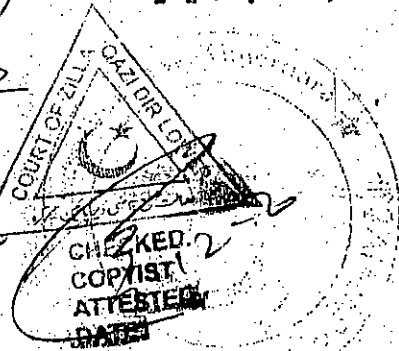
Attested



آج بتاریخ 20/11/2020 بہ وقت میرے دستخط و مہر عدالت جاری کیا گیا۔

محمد جنید عالم

سول جج چہارم تیرگرہ ضلع دیرپائین



21

بعدالت محمد جنید عالم سول جج چہارم بمقام تیمرگرہ ویرپائین۔

حکم نمبر 42

20/11/2020

مدعی حاضر۔ مدعا علیہ نمبر 1 و نمائندہ برائے مدعا علیہم نمبر 2 تا 5 حاضر۔ بحث سماعت شد۔ مسل ملاحظہ شد۔  
 بروئے سرسری مفصل فیصلہ امروز مشتمل بر 04 صفحات، بحث و کلاء و ملاحظہ مسل سے عیاں ہے کہ  
 مذکورین (مدعا علیہم نمبر 1 تا 5) نے اپنا مشترکہ بیان رد و عدالت قلمبند کیا ہے۔ جس میں مذکورین کا جائیداد متدعوینہ کے  
 ملکیت و قبضہ بارے میں کوئی دعویٰ باقی نہیں رہا۔ جبکہ مدعا علیہا نمبر 6 نے بھی اپنے جواب دعویٰ میں منوقف مدعی کی بھرپور  
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 خرچہ بذمہ فریقین رکھا جاتا ہے۔ مسل بعد از ترتیب و تکمیل داخل دفتر ہو۔

حکم سنایا گیا۔

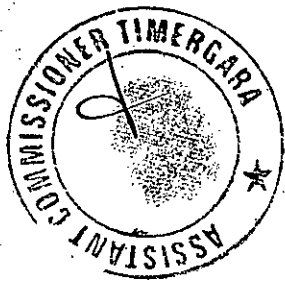
20/11/2020

Attested

*[Signature]*  
 محمد جنید عالم

سول جج چہارم تیمرگرہ ضلع ویرپائین

*[Signature]*



*[Signature]*  
 20-12-20

22

1

بعدالت جناب محمد جنید عالم صاحب سول جج چہارم تیمرگرہ ضلع دیرپائین

سال: 2018ء

مقدمہ نمبر: 514/1

جدید رجوعہ: 11/12/2018

اصل رجوعہ: 28/03/2015

تاریخ فیصلہ: 20/11/2020

نیاز محمد ولد حاجی نظیر محمد ساکن انڈھیرے تحصیل بلائٹ ضلع دیرپائین ----- (مدعی)

بنام

Affested

(1) تحصیلدار بلائٹ بمقام بلائٹ ضلع دیرپائین (2) اسٹنٹ کسٹرن صاحب تیمرگرہ تحصیل تیمرگرہ ضلع دیرپائین (3) ڈپٹی کسٹرن ضلع دیرپائین بمقام تیمرگرہ (4) حکومت KPK بذریعہ چیف سیکرٹری بمقام پشاور (5) بورڈ آف ریونیو بذریعہ سیکرٹری بمقام پشاور (6) مسماۃ ظہرہ فلک دختر نواب محمد شاہ خسرو خان ساکن دیر تحصیل دیر ضلع دیر بالا ----- (مدعا علیہم)

دعویٰ بمبر اصدور ڈگری حکم امتناعی اور امانی و غیرہ

سری فیصلہ:

20/11/2020

فیصلہ ہذا کے ذریعے مقدمہ عنوان بالا کا ختمی تصفیہ کرنا مقصود ہے۔

مدعی نے دعویٰ خود کے جز الف میں اصدور ڈگری حکم امتناعی برخلاف مدعا علیہم کی بدیں مراد استدعا کی ہے کہ اراضی

متمدعویہ مدعی کی زر خریدہ جائیداد اراضی مقداری بارہ سٹھ محدود و محدودات شمالاً بنگلہ مکان فضل ربانی، جنوباً دریائے چنکوڑہ،

شرقاً خوڑمانو، غرباً بار ابطہ سڑک بہ اساس دستاویز بیچنامہ محررہ 22/10/2008 درج شدہ ہوئے۔ 02/02/2009 اراں

مدعا علیہا نمبر 6 خرید شدہ ہے۔ مدعا علیہم نمبر 1 تا 5 کو کوئی حق حاصل نہ ہے کہ وہ مدعی کی ملکیتی جائیداد با قبضہ و با تصرف میں

دخل مداخلت کر کے مدعی کی قبضہ و تصرف میں رکاوٹ ڈالے یا مدعی کے تیسری کام و دیگر حفاظتی بند و غیرہ کی تیسری میں مزاحم ہو کر

مدعی کو مستفید ہونے سے دو انا باز منع رہیں۔ دعویٰ کے جز ب میں مدعی اصدور ڈگری برائے منسوخی احکامات وغیرہ صادر شدہ

جاری

28

وصادر کردہ منجانب مدعا علیہم نمبر 1 تا 5 بابت اراضی/ جائیداد مذکورہ مندرجہ بیعنامہ رجسٹر شدہ، کا مستدعی ہے۔

مختصر حالات و واقعات مقدمہ یوں ہے کہ مدعی نے دعویٰ صدور ڈگری حکم امتناعی وغیرہ دائر کی ہے۔ دعویٰ مدعی کے

مطابق مدعی نے جائیداد متذکرہ مندرجہ دستاویز محررہ 22/10/2008 ازاں مدعا علیہا نمبر 6 بوجہ ظاہری و کامل مالکہ ہونے

بروئے دستاویز مذکور بعبوض رقم مبلغ -/25,00,000 روپے خریدی ہے۔ اور بیعہ مذکورہ کو بمطابق قاعدہ و قانون رجسٹریشن

ایکٹ بمورخہ 02/02/2009 رجسٹر کرایا گیا ہے۔ جائیداد مذکور پر مدعی نے لاکھوں روپے خرچ کر کے برائے آبادی

کارآمد بنائی ہے۔ بعدہ مدعی نے دوسرے لوگوں کے ساتھ لین دین کر کے اب مذکورہ جائیداد پر رہائشی مکانات بن گئے

ہیں۔ جن میں متعلقہ مالکان رہائش پذیر ہیں۔ تاہم مدعا علیہم نمبر 1 تا 5 مدعی کے اس حیثیت میں مزاحم ہونے کے درپے

ہو کر مدعی کو بقایا جائیداد میں تعمیرات سے منع کر رہے ہیں۔ جن کے مذکورین ہرگز قانوناً اور شرعاً حقداران و مجازنہ ہیں۔

مدعا علیہم کو باز بار کہا کہ وہ غیر قانونی ہتھکنڈوں/ انوسز کی اساس پر مدعی کی قانونی و ملکیتی جائیداد تعمیر میں رکاوٹ ڈالنے سے

روک روک رہیں تاہم مدعا علیہم نمبر 1 تا 5 نکاری ہوئے۔ یوں با امر مجبوری نالیش ہذا کی ضرورت لاحق ہوئی۔ آخر میں مدعی نے

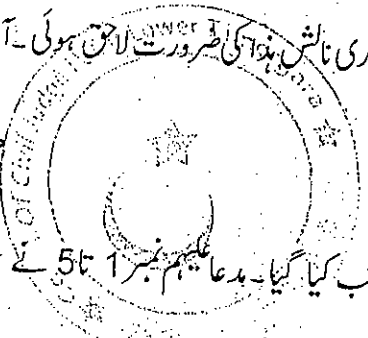
دعویٰ خود کو ڈگری کرنے کی استدعا کی ہے۔

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دعویٰ مدعیان کے تناظر میں مدعا علیہم کو حسب ضابطہ طلب کیا گیا۔ مدعا علیہم نمبر 1 تا 5 نے بروئے حکم نمبر 7

محررہ 27/07/2015 و مدعا علیہا نمبر 6 نے بروئے حکم نمبر 10 محررہ 28/11/2015 جواب دعویٰ داخل عدالت

کیا۔ مدعا علیہم نمبر 1 تا 5 نے جواب دعویٰ خود میں دعویٰ مدعی کے مختلف قانونی و واقعاتی پہلوؤں سے تردید کی ہے۔ تاہم

مدعا علیہا نمبر 6 نے اپنے جواب دعویٰ میں موقوف مدعی کی تائید میں موقوف اختیار کیا ہے کہ مدعا علیہا نمبر 6 جائیداد متدعوئیہ

بشمول دیگر وسیع و عریض جائیداد کی مالکہ و قابضہ ہے۔ اسی طرح مدعا علیہا نمبر 6 بطور کامل مالکہ ہونے کے، جائیداد مذکور مدعی

کو درست طور پر بروئے بیعنامہ محررہ 22/10/2008 و رجسٹر شدہ محررہ 02/02/2009 فروخت کر کے قبضہ و ملکیت

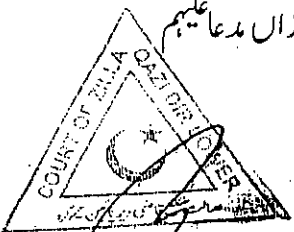
حوالہ مدعی کی ہے۔ اسی طرح مزید موقوف اختیار کی ہے کہ مدعا علیہا نمبر 6 نے بعد از فروخت جائیداد متدعوئیہ میں کسی قسم کی

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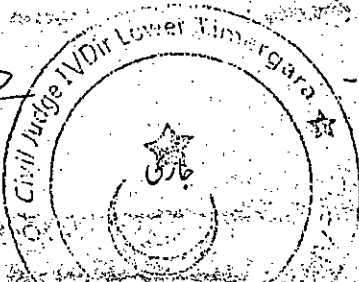


مداخلت نہیں کی ہے۔ بلکہ بعد از بیع حقوق مدعی کی پاسداری کی ہے۔ آخر میں عدالت سے استدعا کی ہے کہ دعویٰ مدعی بمطابق قانون بحق مدعی ڈگری فرمایا جائے۔

اسی طرح بعدہ مقدمہ ہذا میں کارروائی شہادت مدعی شروع ہوئی۔ دوران کارروائی شہادت منجانب وکیل مدعی ایک درخواست بابت شامل مسل کرنے دستاویزات / ریکارڈ پیش کی گئی۔ درخواست میں مؤقف اختیار کیا کہ جملہ جائیداد سابق نواب صاحب دیر اور خصوصی طور پر تحصیل بلا مہٹ کے جائیداد کی نسبت مسماۃ ظہرہ فلک دختر سابق نواب دیر نے عدالت عالیہ میں ریٹ پٹیشن بحوالہ گزٹڈ نوٹیفیکیشن 1972 دائر کر کے جو کہ حتمی طور پر Allowed ہوئی۔ مابعد اس سلسلے میں Contempt of Court کی درخواست عدالت عالیہ میں دائر کی گئی۔ درخواست COC پر عدالتی احکامات کے تناظر میں مدعا علیہان نے ریوینوشاف کی مدد سے جائیداد سابق نواب دیر کی تخصیص و تعیین کر کے رپورٹ مرتب کی، اور اراضی متدعوہ کو سیریل نمبر 31 نواب دیر (مسماۃ ظہرہ فلک) کی ملکیت قرار دیا۔ مذکورہ رپورٹ / ریکارڈ بابت متعلقہ تحصیلدار کو بمعہ پٹواریان عدالت طلب کیا گیا۔ متعلقہ تحصیلدار بطور مدعا علیہ نمبر 1 و نمائندہ برائے مدعا علیہ نمبر 2 تا 5 پیش ہوا، اس طرح متعلقہ تحصیلدار کا بمعہ پٹواریان مشترکہ بیان قلمبند کیا گیا ہے۔ جس میں وہ بیانی ہیں کہ عدالت عالیہ پشاور ہائی کورٹ میں گورہ بیچ (دارالقضا سوات) کے حکم محررہ 28/02/2018 جو کہ C.O.C نمبر 411-P/2014 در سلسلہ W.P No. 2985/2010 بعنوان مسماۃ ظہرہ فلک دختر سابق نواب دیر (محمد شاہ خسرو خان) وغیرہ بنام سہیل خان (ڈپٹی کمشنر ضلع دیر پائین) وغیرہ کے تعین کی غرض سے ہم نے افسران بالا کی ہدایت پر نوابی اراضیات درج نوٹیفیکیشن نمبر 10/16-SOTA-II/72-1522-1522 محررہ 15/09/1972 سے متعلق رپورٹ بابت نشاندہی وحد براری محررہ 26/09/2019 مرتب کی ہے۔ جس میں اراضی متدعوہ صفحہ نمبر 9 کے سیریل نمبر 3 و قطعہ نمبر 31 درج ہے۔ بدیں وجہ قطعہ مذکور کے ملکیت کے بارے میں انہوں کا کوئی دعویٰ باقی نہ رہا۔ اس نسبت مسل مقدمہ پراقتاری لیٹر ازاں DC صاحب و AC صاحب تھر گرہ بطور EXPB، EXPA بالترتیب موجود ہے۔ جبکہ مرتب کردہ رپورٹ ازاں مدعا علیہ نمبر 1 تا 5 بطور EXPC موجود ہے۔



CHECKED.  
COPYIST  
ATTESTED  
DATE



بعد از قلمبندی بیان مدعا علیہم نمبر 1 تا 5، مقدمہ ہذا میں تاریخ پیشگی برائے بحث و حکم دوسری فیصلہ مقرر کی گئی۔

بحث سماعت کی گئی۔ مسل ملاحظہ کیا گیا۔

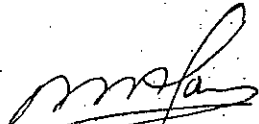
بحث و کلاء و ملاحظہ مسل سے عیاں ہے کہ مذکورین (مدعا علیہم نمبر 1 تا 5) نے اپنا مشترکہ بیان روبرو عدالت قلمبندی کیا ہے۔ جس میں مذکورین کا جائیداد متدعوئیہ کے ملکیت و قبضہ بارے میں کوئی دعویٰ باقی نہیں رہا۔ جبکہ مدعا علیہا نمبر 6 نے بھی

اپنے جواب دعویٰ میں موقوف مدعی کی بھرپور تائید کی ہے۔ نیز مسل پر موجود ریکارڈ بھی واضح طور موقوف مدعی کی تائید کرتے

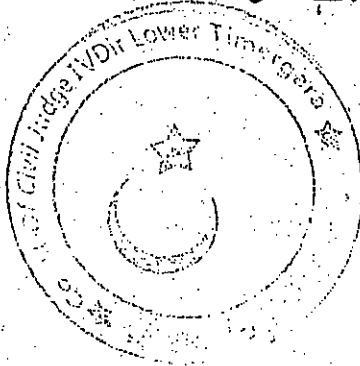
ہیں۔

لہذا مذکورہ وجوہات کو مد نظر رکھتے ہوئے دعویٰ مدعی بحق مدعی برخلاف مدعا علیہم حسب استدعا و ڈگری کیا جاتا ہے۔

خرچہ بذمہ فریقین رکھا جاتا ہے۔ مسل بعد از ترتیب و تکمیل داخل دفتر ہو۔

  
محمد جنید عالم

سول جج چارم جمر گره ضلع دیرپائین۔



حکم ناما گیا۔

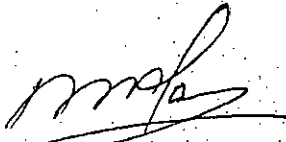
20/11/2020

Attested

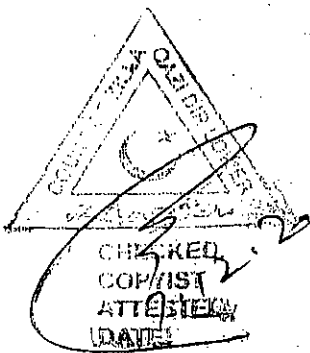
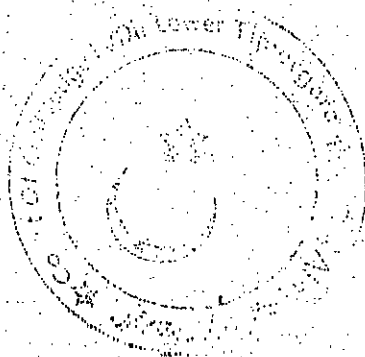
سرٹیفکیٹ۔

تصدیق کی جاتی ہے کہ دوسری فیصلہ ہذا کل (04) صفحات پر مشتمل ہے۔ ہر صفحہ بعد از ضروری تصحیح میرا دستخط

درست طور پر ثبت ہے۔

  
محمد جنید عالم

سول جج چارم جمر گره ضلع دیرپائین۔



S.No: 2729

Date of Application 7.12.20

Urgent Fee: 1/-

Revenue Fee: 1/-

No of Pages: 401

No of Word: 2000

Copying Fee: 1/-

Total Fee 180/-

Date of Preparation 7.12.20

Date of Delivery 7.12.20

Signature: [Signature]

جاری

Judge Di Lower Timergarah

- (1) Govt of KPK through Deputy Commissioner Di Lower Timergarah
- (2) Assistant Commissioner Di Lower Tim.
- (3) Tehsildar Balambat Di Lower Tim.
- (4) Chief Secretary KPK
- (5) Secretary Board of Revenue

----- Appellants

Versus

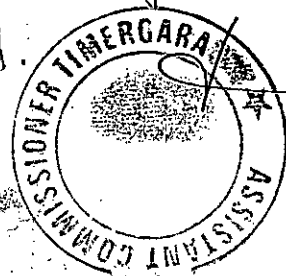
Niaz Muhammad s/o Haji Nazir Muhammad R/o  
Andhal Tehsil Balambat Di Lower Dist.

----- Respondent  
Plaintiff

Appeal against the Judgement/Decree/Order  
dated 20/11/2020 of Civil Judge 4 where  
by he decreed the suit of plaintiff.  
(Appeal under section 96 CPC 1908)

Respectfully sheweth

Facts Brief facts pertaining to instant appeal are as under:  
(1) That the Respondent filed a suit against  
appellant for declaration that he may be  
declared as owner of suit property, on  
basis that he purchase the suit property  
vide Sale deed 22/10/2008, registered vide  
Registry deed dtd 2/2/2009.



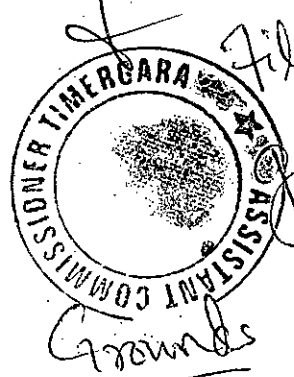
Attested

That the official Respondents 1 to 5 and private respondent NO 6 submitted written statements. The official Respondents 1 to 5 raised certain legal and factual objections and contested the suit.

3) That astonishingly, the suit was decreed vide judgment order dated 20/11/2020 without recording any Pro and Contra evidence. (Attested copy of judgment/decreed order dated 20/11/2020 attached)

Attested

4) That being aggrieved of the judgment / decree order dated 20/11/2020, the appellant files the instant appeal on following grounds.



1-12-20

1) That the judgment / decree / order dated 20/11/2020 is totally unjust, illegal against the facts and law.

2) That astonishingly neither any issues have been framed nor any evidence has been recorded which is grave miscarriage of Justice.

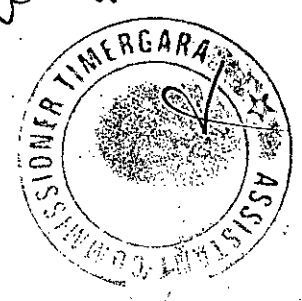
That the suit was decreed in a hasty manner without completion of evidence and the appellants have been deprived of their valuable legal rights

4 That the suit was decreed summarily upon acceptance of simple application filed by plaintiff through which he place some documents on official Court file and <sup>the</sup> of the decree was based on simple statement of revenue official

5 That the Respondents/Appellants were not aware of the statement recorded by Revenue official. That the revenue officials were not authorize to do so and record statement at its own.

6 That the appellants were neither allowed to cross examine the Revenue official nor their

7 That the suit property is the owner ship of Respondents/Appellants and also Affected lies in their possession.



8) That the Plaintiff filed the suit without following the mandatory provisions of Section 79C and Article 174 of the Constitution of the Islamic Republic of Pakistan 1973.

a) That the impugned judgment, decree & order being not a speaking order, against law, facts, record and contrary to the decision of Apex Court, is liable to be reversed.

Appellant

1a) That the Plaintiff failed to produce any documents from which his ownership can be proved.

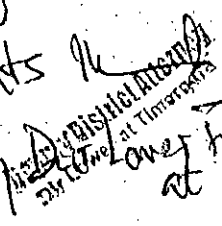


11) Any other ground deemed proper be allowed to be dismissed and raised at time of arguments.

1-12-20

Prayer. It is therefore humbly prayed that upon acceptance of this appeal the so called judgment/order and decree dated 20/11/2020 of Civil Judge may kindly be set aside and suit of Plaintiff may kindly be dismissed with cost. Plaintiff. Any other relief not specifically asked for, may please be granted to the appellant in interest of natural justice.

14)

Appellants  
Dist. Atty.   
District Court, Timergara  
at hujah

Vertical text on the left margin: District Court, Timergara, District Attorney, Timergara.

Before The Court of  
Judge Div Lower

Dist. Session

22/11

- 1 Govt of KPR through Chief Secy.
- 2 Govt of KPR through Deputy Commissioner Polaris

Appellants.

Versus  
 Niaz Muhammad s/o Haji Nazir Muhammad R/o Andhere  
 Tehsil Balanbat Div Lower --- Respondants.

Application for suspension of Judgment date 20/11/2020  
 till final disposal of the Appeal.

Respect fully Shenth

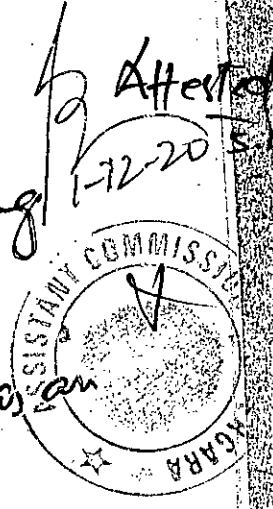
- 1 That the above titled appeal is being filed in this honorable Court.
- 2 That this application may be considered as an integral part of Appeal.
- 3 That if the judgment date 20/11/2020 is being executed it will result in loss to Respondents.

It is therefore humbly prayed to kindly suspend the said judgment date 20/11/2020 till the final disposal of appeal.

Attested and contents of appeal are true to Court.

Respondents/Appellants  
 Dist Attorney Div Lower

Deputy District Attorney  
 Dist Lower at Timorgram





**KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR**

No. 931 /ST

Dated: 25-4-2022

All communications should be  
addressed to the Registrar KPK Service  
Tribunal and not any official by name.

Ph:- 091-9212281  
Fax:- 091-9213262


To

The Deputy Commissioner,  
Government of Khyber Pakhtunkhwa,  
Dir Lower.

Subject: JUDGMENT IN APPEAL NO. 7141/2021 MR. BILAL SAID & 3 OTHERS.

I am directed to forward herewith a certified copy of Judgement dated  
31.01.2022 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR



**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. \_\_\_\_\_/2021

Bilal Said

V/S

Revenue Deptt:

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APPELLANT

Bilal Said

THROUGH:

  
(MUHAMMAD ASIF YOUSAFZAI)

Advocate Supreme Court

&  
  
(SYED NOMAN ALI BUKHARI)

ADVOCATE, HIGH COURT

①

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

APPEAL NO. 7141/2021

Mr. Bilal Said Ex-Tehsil Office kanungo)  
District Dir Lower.

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 7402

Dated 03-8-2021

(Appellant)

**VERSUS**

1. The SMBR Khyber Pakhtunkhwa Peshawar.
2. The Commissioner Malakand Division at Saidu Sharif Swat.
3. The Deputy Commissioner Dir Lower, at Timergara

(Respondents)

.....

**APPEAL UNDER SECTION 4 OF THE KHYBER  
PAKHTUNKHWA SERVICES TRIBUNAL ACT, 1974  
AGAINST THE ORDER DATED 29.04.2021, WHEREBY  
THE APPELLANT HAS BEEN DISMISSED FROM  
SERVICE AND AGAINST REJECTION ORDER DATED  
08.07.2021 WHEREBY THE DEPARTMENTAL APPEAL  
OF THE APPELLANT WAS REJECTED FOR NO GOOD  
GROUNDS.**

**PRAYER:**

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE  
ORDER DATED 29.04.2021 AND 08.07.2021 MAY PLEASE  
BE SET ASIDE AND THE APPELLANT MAY BE  
REINSTATED INTO SERVICE WITH ALL BACK AND  
CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY,  
WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND  
APPROPRIATE THAT, MAY ALSO, BE AWARDED IN  
FAVOUR OF APPELLANT.

**RESPECTFULLY SUBMITTED:**

**FACTS**

1. That the appellant was appointed as Patwari on dated 19.09.2009 and due to his devotion, sincerity, honesty, hardworking and satisfactory performance appellant was promoted as Tehsil Office kanungo on

Filed to-day  
Registrar  
03/08/2021

20.08.2019 in district Dir lower. Whereby the appellant performed his duties with great zeal, zest, enthusiasm and to the entire satisfaction of the high ups.

2. That in the year 2007, one Mst: Zohra Falak daughter of Muhammad Shah Khusro khan ( Ex-Nawab of Dir ) submitted an application to the District Officer Revenue and Estate, District Dir Lower which was sent to presiding officer, revenue appellate court-111, Swat, for guidance, after inquiry by tehsildar Balambat. The revenue appellate court -111 advised the District Officer Revenue and Estate , Dir Lower in the matter vide letter No: 5616/RAC-111SWAT dated ; 27-10-2007. The D.O.R D(L) directed the applicant to provides full particulars of the land but the applicant filled writ petition No; 904/2009 for demarcation of the property of the Ex-Nawab of Dir in the Honorable Peshawar High Court , Peshawar which was accepted by the Honorable Peshawar High Court vide its judgment dated: 28-1-2010. But due to non compliance in time the applicant filed writ petition No; 2985/2010 which was also decided in her favor vide judgment dated ; 11-2-2014, in compliance, the Govt submitted its report but the petitioner being aggrieved by the report filed C.O.C No; 411/2014 in the Honorable Peshawar High Court , Peshawar . On 31-3-2015 the Honorable Court again directed the Govt for filling of fresh report . In compliance the district administration withdraw the previous report and submitted a fresh report on 12-9-2015. As the petitioner was not satisfied from the second demarcation report also , and argued the case , in light of which the Honorable Peshawar High court on 21-6-2016 for the third time directed the Govt to submit fresh demarcation report and declare the previous report cancelled being ambiguous . in compliance of the order dated 21-6-2016 the Govt filed another demarcation report on 9-9-2016 . the Honorable court vide order dated 28-2-2018 , directed the Deputy Commissioner , Dir lower to hear the petitioner and by deciding objection petitions if any and decide the same within three months up to the satisfaction of the Honorable Peshawar High Court **(copy of the order dated 28-2-2018 is annexure A)**.
3. That the district administration directed Tehsildar Balambat for preparation of report for implementation of the judgment of Peshawar High Court and the task was assigned to the appellant being tehsil office kanungo, along with Amin ud din kanuugo , Anwar Zaib tehsil accountant and Alauddin Patwari Tehsil office Balambat which was prepared in the supervision of Tehsildar Balambat with full devotion

(3)

and great struggle. Later on it was forwarded by Tehsildar Balambat to the Assistant Commissioner, TimerGara for filing before the Honorable Peshawar High court **(copy of the report is annexure –B).**

4. That the said Mst; Zohra Falak before initiation of the above mentioned proceeding sold 12 Sata (kanal) land situated at tehsil Balambat to one Niaz Muhammad through a sale deed dated 22/10/2008 which was duly registered by Sub-Registrar, Dir lower through registry dated 2-2-2009. When the said Niaz Muhammad started construction over the purchased property he was issued notices by the Tehsildar Balambat for removal of encroachment against which he filed a civil suit in the court of Senior Civil Judge, Dir lower titled "NIAZ MUHAMMAD VS GOVERNMENT " for permanent injunction against the govt.
5. That as the appellant along with Amin-ud-din kanungo , Anwar Zaib tehsil accountant and Alauddin Patwari tehsil office Balambat prepared the above mentioned report and Tehsildar Balambat forwarded the same to the Assistant Commissioner, TimerGara. Therefore, Tehsildar Balambat was issued notices and thereafter warrant of arrest against him, however he appeared before the Civil court on dated 5-11-2020 requested the court to issue notice against appellant along with other officials, therefore the Honorable civil Judge-4, Dir lower at TimerGara issued notices by name against the appellant and other two officials for personal appearance before the court. **(copy of the order sheet dated 5-11-2020, notice and warrant of arrest issued by the court are annexure C, D & E).**
6. That the appellant along with others attended the honorable court on 12-10-2020 in pursuance of the notices issued by the Honorable Civil court whereby the appellant along with Tehsildar Balambat and other officials who prepared the report was asked about the report and appellant along with other officials and Tehsildar Balambat recorded their statement stating there in the real fact mentioned in their report and the honorable court thereafter passed a decree in favor of the plaintiff (Niaz Muhammad ). **(Copy of the statement is annexed as annexure –F).**
7. That the district attorney Dir lower without going to the report and understanding fact and previous history of the case, wrote a letter against the appellant and other officials mentioned above to the

11. That feeling aggrieved from the impugned orders the appellant having no other option but to file the instant appeal on the following grounds inter alia :-

**GROUND**

- A. That the orders dated 29.04.2021 and 08.07.2021 is against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B. That the inquiry was conducted jointly against the appellant and other official including Tehsildar, so according to RULE 2(f)(ii) of E&D RULE, 2011 "when two or more Government Servant are to be proceeded against jointly, the competent authority in relation to the accused Government Servant senior most, Shall be the competent authority in respect of all the accused". So, in case of the appellant, appellant was dismissed from service by the Deputy Commissioner and tehsildar case was forwarded to the SMBR for further action which is violation of RULE 2(f)(ii) of E&D RULE, 2011 is also violation of ART-25 of the constitution. So in the instant case SMBR was the Competent Authority not the Deputy Commissioner. Hence, the impugned order was passed by the incompetent authority(DC) and amount to Corrum non Judice, so void in the eye of law. The same principle held in the Superior Court judgments cited as 2014 SCMR 1189.
- C. That Additional Assistant Commissioner (Rev), Dir lower at TimerGara, was nominated an inquiry officer who conducted a fact finding inquiry at the back of the appellant and the appellant was verbally asked for submitting statement in writing. The appellant submitted his detail statement, However, Additional Assistant Commissioner, (Rev) Dir lower at TimerGara, without going through the statement of the appellant and available record, submitted his inquiry report with recommendation that further procedure may be adopted under E&D rules 2011 but It is worth to mentioned here that quite strangely later on Additional Deputy Commissioner (admin) Dir lower appointed as inquiry officer on the ground that the previous inquiry officer not gave recommendation for penalty (in law it is not domain of the inquiry officer to recommend punishment). However new inquiry officer who never conducted inquiry but only gave recommendation on the previous inquiry report proposing major

(5)

Deputy Commissioner Dir lower. **(copy of letter is annexed as annexure G).**

8. That the Deputy Commissioner , Dir lower without going to the available record, fact of the case and adopting proper procedure as / mentioned in Khyber Pakhtunkhwa Efficiency and Disciplinary Rules 2011, order for a fact finding , inquiry against the appellant on the allegation that the appellant appeared and recorded statement without any authorization before the court of law . Additional Assistant Commissioner, (Rev) Dir lower at TimerGara, was nominated an inquiry officer who conducted a fact finding inquiry at the back of the appellant and the appellant was verbally asked for submitting statement in writing. The appellant submitted his detail statement, However, Additional Assistant Commissioner, (Rev) Dir lower at TimerGara, without going through the statement of the appellant and available record, submitted his inquiry report with recommendation that further procedure may be adopted under E&D rules 2011 but It is worth to mentioned here that quite strangely later on Additional Deputy Commissioner (admin) Dir lower appointed as inquiry officer on the ground that the previous inquiry officer not gave recommendation for penalty (in law it is not domain of the inquiry officer to recommend punishment). However new inquiry officer who never conducted inquiry but only gave recommendation on the previous inquiry report proposing major penalty against the appellant. **(Copies of the statement, inquiry report and recommendations are annexed as annexure H, I &J).**
9. That the Deputy Commissioner Dir lower without adopting proper procedure under E3&D rules 2011 and without affording opportunity of defense and personal hearing straightaway dismissed the appellant in a manner alien to the law of the land vide impugned order dated 29-4-2021 which was communicated on 30-4-2021. **Copy of impugned order is attached as annexure-K.**
10. That feeling aggrieved from the impugned order dated 29-4-2021 appellant filed departmental appeal dated 18.05.2021 which was rejected vide order dated 08.07.2021 being treated as court case which is also alien to the civil servant act 1973 and appeal rules 1986. **Copy of departmental appeal and rejection order is attached as annexure-L & M.**

inquiry was not necessary **and 14(5) of the E&D rules 2011** in case where inquiry is necessary. The same principle held in the Superior Court judgments cited as 2006 SCMR 1641.

- N. That on one hand the appellant along with other official was directed for preparation of report for implementation of the High Court judgment which was prepared and submitted onward and on the other hand the appellant was penalized for recorded statement in the light of said report in the civil court on court direction. Further it is stated that the high rank official (Tehsildar) was also appear with the appellant who was immediate boss of the appellant. However he appeared before the court on dated 5-11-2020 requested the court to issue notice against appellant along with other officials, therefore the Honorable Civil Judge-4, dir lower at TimerGara issued notices by name against the appellant and other two officials for personal appearance before the court. That the appellant along with others attended the honorable Civil Court on 12-10-2020 in pursuance of the notices issued by the honorable court whereby the appellant along with tehsildar Balambat and other officials who prepared the report was asked about the report and appellant along with other officials and tehsildar Balambat recorded their statement stating there in the real fact mentioned in their report and according to law the every citizen and every functionary of the government of the state is duty bound to obey the direction of the court of law. So, there is no question arise of unauthorized statement.
- O. That Niaz Muhammad filed application to Deputy Commissioner and stated that the appellant properly buy this property from Mst: Zahra Falak D/o Nawab Muhammad Shah Khusro (late) but Tehsildar Balambat disturbing him for such property and requested for initiate inquiry. On the application sub-registrar confirmed that the sale deed was available and properly registered and also stated that the said property belongs to Nawab and the same was sold to Niaz Muhammad. The tehsildar make a site map of the property and also submitted his detailed report on the said property and requested to same be incorporated in C.O.C, the said report was submitted to DC Lower Dir for approval. The DC, Dir Lower approved the report and direction issued to same may be incorporated in the report. **Copy of documents is attached as annexure-N**
- P. That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

J. That no charge sheet was issued to the appellant on the allegation appellant was dismissed from service which is violation of **Rule-10(b) of the E&D Rules 2011** and on the basis of fact finding inquiry appellant was awarded major penalty which is against the law, rules and norms of justice, because in case of imposing major penalty proper regular inquiry and proper procedure has to be conducted under **Rule-5, 10, 11 & 14 of the E&D Rules 2011** but in case of the appellant same was violated which is also violation of Supreme Court judgment Cited as 2008 SCMR 609 wherein clearly stated that inquiry conducted in absence of charge sheet is void-ab-initio and also violation of this tribunal judgment in appeal no: 905/2016 decided on 20.02.2018. In Supreme court judgment cited as 2004 SCMR 294, 2008 PLC cs 1107, 2008 PLC cs 1065 wherein clearly state that the major penalty cannot be imposed on the basis of fact finding inquiry.

K. That no show cause notice was issued before taking adverse action which is violation of rule **Rule-5(a) Read with Rules -7** in case inquiry was not necessary and **Rule-14(b) of the E&D Rules 2011**, in case where regular inquiry is necessary. Which were totally ignored before taking adverse action. The same principle held in the Superior Court judgments cited as 1987 SCMR 1562, 2019 PLC cs 811, 2008 PLC cs 921 and 209 SCMR 605. Further it is added that inquiry report was also not provided to the appellant which was also violation of **Rule 14(c) of the E&D rules 2011**, so the impugned order was passed in violation of law and rules and norms of justice. The same principle held in the Superior Court judgments cited as 1981 PLD SC 176 and 1987 SCMR 1562.

L. That no proper regular inquiry was conducted only fact finding inquiry was conducted but the appellant not associated with the inquiry, neither the statement recorded in presence of appellant nor was the chance of cross examination provided to the appellant which is violation of **Rule-10 (b) and Rule 11 (1) of the E&D Rules 2011**, which were totally ignored before imposing punishment which is illegal and against the law, rules and natural justice. The same principle held in the Superior Court judgments cited as 2010 SCMR 1554, 2016 SCMR 108, 2009 PLC (cs) 19, 2008 SCMR 1369, 2009 SCMR 412, 2007 PLC cs 247 and 2008 PLC cs 1107.

M. That the opportunity of personal hearing and personal defense was not provided to the appellant which was violation of **Rule 7(d)** in case



penalty against the appellant, such action of the inquiry officer was alien to E&D Rules, 2011.

- D. That the appellant has been condemned unheard in violation of Article 10-A of the Constitution of Islamic republic of Pakistan and in violation of maxim "Audi Alterum Partum" and has not been treated according to law and rules. That according to reported judgment cited as *2019 CLC 1750* stated that Audi Alterum Partum" shall be read as part and parcel of the every statute. The same principle held in the Superior Court judgments cited as *2016 SCMR 943, 2010 SCMR 1554 and 2020 PLC(cs) 67.*
- E. That the appellant have not been treated in accordance with law hence the appellant right secured and guaranteed under the law are badly violated.
- F. That according to Federal Shariyat court Judgment cited as *PLD 1989 FSC 39* the show cause notice is must before taking any adverse action, non-issuance of show cause notice is against the injunction of Islam. Hence the impugned order is liable to be set-aside.
- G. That the show cause is the demand of natural justice and also necessary for fair trial and also necessary in light of injunction of Quran and Sunnah but show cause was not given to the appellant. So, fair trail denied to the appellant which is also violation of Article 10-A of the constitution. Further it is added that according to reported judgment cited as *1997 PLD page 617* stated that every action against natural justice treated to be void and unlawful. Hence impugned order is liable to be set-aside. The natural justice should be considered as part and parcel of every statute according to superior court judgment cited as *2017 PLD 173 and 1990 PLC cs 727.*
- H. That the charges leveled against the appellant were never proved in the enquiry, the enquiry officer gave his findings on surmises and conjectures.
- I. That the appellant have never committed any act or omission with bad or malafide intentions which could be termed as misconduct, albeit the appellant was dismissed from the service. Which is violation of reported judgment cited as *1997 PLC cs 564.*

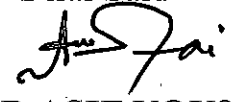
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It is, therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for, with cost.

  
APPELLANT

Bilal Said

THROUGH:



(MUHAMMAD ASIF YOUSAFZAI)

Advocate Supreme Court



(SYED NOMAN ALI BUKHARI)

ADVOCATE, HIGH COURT