



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, passed in Service Appeal bearing No. 7141/2021 titled "Bilal Said Versus The SMBR Khyber Pakhtunkhwa Peshawar and two others", the instant service appeal is accepted. The impugned orders are set aside and the appellant is 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)

7138/2021

18.01.2022

During the course of arguments in Service Appeal No. 7141/2021 titled "Bilal Said Vs. SMBR Khyber Pakhtunkhwa, Peshawar and others", it transpired that instant service appeal has been preferred against the same order as impugned in the above mentioned service appeal. Therefore, this appeal is clubbed with Service Appeal No. 7141/2021.

Written reply of the respondents is still awaited. Office is directed to issue fresh notices to the respondents to furnish reply/comments as a last chance before the next date, failing which their right for reply/comments shall be deemed as struck off. Case to come up for arguments on 28.01.2022 instead of 23.02.2022 before the D.B alongwith Service appeal No. 7141/2021.

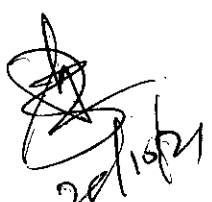

(Atiq-Ur-Rehman Wazir)
Member (E)


Chairman

28.10.2021

Learned counsel for the appellant present. Preliminary arguments heard. Memorandum of appeal and the copies of record annexed there with have been perused.

The appellant has invoked the jurisdiction of this Tribunal to impugned the order dated 29.04.2021 of the competent authority whereby major penalty of dismissal from service has been imposed upon the appellant. The appeal is within time. Subject to other factual and legal objection this appeal is admitted for regular hearing. 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 through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 23.02.2022 before the D.B.


Appellant Deposited
Security & Process Fee

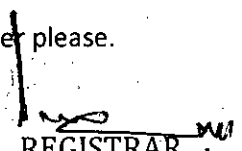

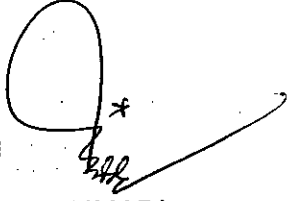

Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 2138 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	02/08/2021	<p>The appeal of Mr. Anwer Zaib presented today by Mr. Noor Muhammad Khattak 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>2-</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>10/09/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p>10.09.2021</p> <p>Clerk of counsel for the appellant present.</p> <p>Due to general strike of the legal fraternity, the case is adjourned. To come up for preliminary hearing before the S.B on 28.10.2021.</p> <p style="text-align: right;"> (MIAN MUHAMMAD) MEMBER (E)</p>

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
CHECK LIST

Case Title: ANWAR ZAIB V/S SMBR DEPARTMENT

S#	CONTENTS	YES	NO
1	This Appeal has been presented by: NOOR MOHAMMAD KHATTAK	✓	
2	Whether Counsel/Appellant/Respondent/Deponents 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?	x	✓
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 AG/DAG?	✓	
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 cutting/overwriting?	x	✓
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: **NOOR MOHAMMAD KHATTAK**

Signature: _____

Dated: _____

(Handwritten Signature)
2/8/2021

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. 2138 /2021

ANWAR ZAIB V/S SMBR DEPARTMENT

I N D E X

S.N O	DOCUMENTS	ANNEXUR E	PAGE
1	Memo of appeal	1 - 5
2	Affidavit	6
3	Order dt: 28-02-2018	A	7-10
4	Order Forwarding letter	B	11
5	Order sheet dt: 5-11-2020	C	12
6	Summons	D	13
7	Notice of arrest	E	14
8	Statement	F	15
9	Latter	G	16
10	Statement	H	17-22
11	Inquiry report	I	23-26
12	Recommendation	J	27
13	Impugned order dt: 29-04-2021	K	28
14	Departmental appeal	L	29-33
15	Appellate order dt: 08-07-2021	M	34-35
16	Wakalat Nama	36

Dated: 2/08/2021

APPELLANT

Through:

**NOOR MOHAMMAD KHATTAK
ADVOCATE**

FLATE NO. 04, 2ND FLOOR,
JUMA KHAN PLAZA, NEAR FATA SECRETARIAT,
WARSAK ROAD, PESHAWAR

0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 7138/2021

**Khyber Pakhtunkhwa
Service Tribunal**

Mr. Anwar Zaib, Ex-Tehsil Accountant Balambat,
Tehsil Balambat, District Dir Lower

Diary No. 7392

Dated 02/8/2021

.....**APPELLANT**

VERSUS

- 1- The Senior Member Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
- 2- The Commissioner Malakand Division at Saidu Sharif Swat.
- 3- The Deputy Commissioner, District Dir Lower.

.....**RESPONDENTS**

**APPEAL UNDER SECTION- 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST
THE IMPUGNED ORDER DATED 29-04-2021 WHEREBY
MAJOR PENALTY OF DISMISSAL FROM SERVICE HAS BEEN
IMPOSED ON THE APPELLANT AND AGAINST THE
APPELLATE ORDER DATED 08-07-2021 WHEREBY THE
DEPARTMENTAL APPEAL OF THE APPELLANT WAS
REJECTED AND THE ORDER DATED 29-04-2021 WAS
MAINTAINED WITH NO GOOD REASONS**

PRAYER:

That on acceptance of this appeal the impugned order dated 29-04-2021 and the appellate order dated 08-07-2021 may very kindly be set aside and the appellant may be re-instated into service with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:-

- 1- That appellant was appointed as patwari and due to his devotion, sincerity, honesty and satisfactory performance; appellant was promoted as Tehsil Office Kanungo in District Dir Lower.
- 2- That in the year 2007, one Mst. Zohra Falak D/O 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 the 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 Officer Dir Lower in the matter vide letter No. 5616/RAC-III Swat dated 27-10-

Filed to-day

Registrar

2/8/2021

2007. The D.O.R D (C) directed the applicant to provide the full particular of the land but the applicant filed the writ petition No. 904-2009 for demarcation of the property of Ex-Nawab of Dir in the Honorable Peshawar High Court Peshawar which was accepted by the Honorable Court side its judgment 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 judgment dated 11-02-2014 in compliance, the Government submitted its report but the petitioner being aggrieved by the report filed COC No. 411/2014 in Honorable Peshawar High Court, Peshawar. On 31-3-2015 the Honorable Court again directed the Government for 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 and argued the case, in light of which the Honorable Court on 21-06-2016 for the third time directed the Government to submit the fresh demarcation report and declare the previous report cancelled being ambiguous. In compliance of order dated 21-06-2016 the government file another demarcation report on 9-9-2016. The Honorable Court vide order dated 28-02-2018 directed the Deputy Commissioner Dir Lower to hear the petitioner and by deciding objection petition if any, and decide the same within the three months, up to the satisfaction of the Honorable Court. Copy of the order dated 28-02-2018 is attached as annexure**A.**

- 3- That the District Administration directed Tehsildar Balambat for preparation of report for implementation of judgment of Peshawar High Court and the task was assigned to the appellant being Tehsil Office Kanungo along with Bilal Said Kanungo, Anwar Zaib Tehsil Accountant and Allaud Din 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 Balamab to Assistant Commissioner Timargara for filing before the Honorable Court. Copy of the ^{forwarding letter} is annexure**B.**
- 4- That the said Mst. Zuhra Falak before initiation of 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 deed 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 Government.
- 5- That as the appellant along with Bilal Said Kanungo, Anwar Zaib Tehsil Accountant and Alauddin Patwari Tehsil Office Balambat prepared the above mention report and the Tehsildar Balambat forwarded the same to the Assistant Commissioner, Timergara. Therefore Tehsildar Balambat was issued notices and therefore warrants of arrest against him however he appeared before the court

and on dated 5-11-2020 requested the court/ notice against that appellant along with other officials. Therefore the honorable civil court-IV Dir Lower at Timergara issued notices by name against the appellant and other three officials for personal appearance before the court. Copies of the order sheet dated 5-11-2020, summons and notice of arrest issued by court are attached as annexure ...**C, D & E.**

6- That the appellant along with others attended the honorable court on 12-10-2020 in pursuance of the summons/ 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 the appellant along with other officials and Tehsildar Balambat recorded their statements stating their in the real fact mentioned in their report and honorable court thereafter passed a decree in favour of the plaintiff (NIAZ MUHAMMAD). Copy of statement is attached 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 letter is attached as annexure**G.**

8- That the Deputy Commissioner Dir Lower without going to the available record, facts of the case and adopting proper procedure as mentioned in the Khyber Pakhtunkhwa, (E&D) 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 Timargara, 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 detailed statement, however Additional Assistant Commissioner Dir Lower at Timargara without going through the statement of the appellant and available record, submitted his inquiry report without any recommendation. It is worth mentioning the quite strangely later on Additional Deputy Commissioner (Admin) Dir Lower submitted his recommendations on the inquiry report proposing major penalty against the appellant. Copies of statement, inquiry report and recommendations are attached as annexure **H, I & J.**

9- That the Deputy Commissioner Dir Lower without adopting proper procedure and affording opportunity of defense and personal hearing straight away 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. Copy of the impugned order dated 29-04-2021 is attached as annexure **K.**

10-That appellant feeling aggrieved from the impugned order dated 29-04-2021 preferred departmental appeal on 19-05-2021. Copy of the departmental appeal is attached as annexureL.

11-That the departmental appeal of the appellant was rejected by the appellate authority vide appellate order dated 08-07-2021 with no good reasons. Copy of the appellate order dated 8-7-2021 is attached as annexure M.

12-That having no other remedy but to file the instant service appeal on the following grounds amongst the others.

GROUND:

A- That the impugned orders dated 29-04-2021 and 08-07-2021 are against the law, facts, norms of natural justice and material on the record hence not tenable and liable to be set aside.

B- That appellant has not been treated by the respondent department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

C- That the respondents acted in arbitrary and mala fide manner while issuing the impugned dismissal order dated 29-04-2021 and appellate order dated 08-07-2021.

D- That no charge sheet and statement of allegation has been issued to the appellant before issuance of the impugned order dated 29-04-2021.

E- That no show cause notice has been served on the appellant before issuing the impugned order dated 29-04-2021.

F- That no chance of Personal Hearing / Defense has been provided to the appellant before issuance of the impugned order dated 29-04-2021.

G- That authorization 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 authorization in case when a Court of law issue notice/summon personally to any official for appearance or giving any information or stamen in order to enable the Court to reach a just conclusion. Similarly the appellant along with his other colleagues were issued notices/summons/warrants for personal appearance and the appellant and his colleagues obeyed the order of the Court.

H- That every citizen and every Functionary of the state is duty bound to obey the directions/orders of the 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 and instructions it is evident from the warrant of arrest issued against the Tehsildar

Balambat. More over the disqualification of 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 Honorable Court.

- I- That no regular inquiry has been conducted against the appellant which is as per Supreme Court judgments is necessary in punitive actions against the civil servant.
- J- That the appellant has been made scapegoat in the instant case and as such the impugned orders dated 29.4.2021 and 8.7.2021 are not tenable and liable to be set aside.
- K- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

Dated: 28.7.2021

APPELLANT


ANWAR ZAIB

THROUGH:


NOOR MOHAMMAD KHATTAK


KAMRAN KHAN


UMAR FAROOQ
&


SAID KHAN
ADVOCATES

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

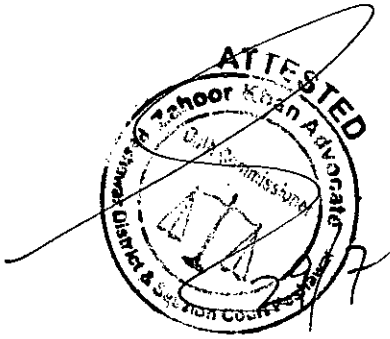
ANWAR ZAIB

VS

SMBR DEPTT:

AFFIDAVIT

Stated on oath that the contents of the accompanying service appeal are correct to best of my knowledge and belief and nothing has been concealed from this Honorable Service Tribunal.




DEPONENT

CERTIFICATE:

Certify that no earlier service appeal has been filed by the appellant in the instant matter before this Honorable Service Tribunal.


CERTIFICATION

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

FORM OF ORDER SHEET

Court of

Case No. of

No. of order ding	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary.
1	2	3
	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 & C.M 729/2017 in W.P 2985/2010.</u></p> <p>Present: 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>

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 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."

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]

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.

[Signature]
JUDGE
[Signature]
JUDGE

ATTACHED

9/6 11

ANNEXURE B

11

22

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

mm
13/12/2019
SEADER TO TEHSILDAR
BALAMBAT, DIST: DIR


Tehsildar Balambat,
Dir Lower.

ATTACHED



18

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

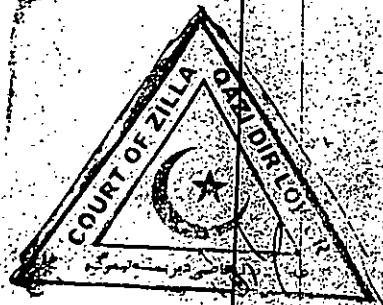
0-33

22/9/20

مرکی ڈیڑھ فیصد ہائپر-کھلا ہوا ہے
 ٹاؤن ہاؤس، ڈیڑھ لکھ ۸۸۵ ڈیڑھ لکھ
 اعلیٰ عدالت کا فیصلہ مورخہ ۱۵/۰۵/۲۰
 جس کے مطابق ڈیڑھ لکھ ہے

or-34
5/11/02

مرکی ڈیڑھ فیصد ہائپر-کھلا ہوا ہے
 ڈیڑھ لکھ ۸۸۵ ڈیڑھ لکھ
 اعلیٰ عدالت کا فیصلہ مورخہ ۱۵/۰۵/۲۰
 جس کے مطابق ڈیڑھ لکھ ہے



CHECKED
COPIES
ATTACHED
DATE

[Signature]

RECEIVED

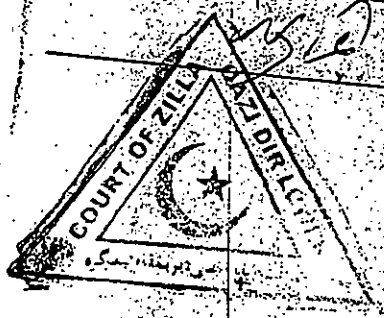
ANNEXURE D

مقدمہ نمبر: 514/1 سال 2018
 علاقہ قاضی اور ریاستیں بمقام 12-10-2018
 نیا رحمد

نوٹس اسم بنام: ریور انڈسٹری (نیواری) ایجوکیشن اور
 نائب ناظر: ملا علی محمد

مقدمہ عنوان بالا میں مفادہ کسٹیاں بالا کو مطلع کیا جاتا ہے کہ ذمہ تاریخ: 12/10/18
 کوچ عدالت بلڈ این اصالت اختیار اور دکاتا بسلسلہ تاریخ:

نمبر: 778
 پلس فوراً تسلیم کرے
 ناظر ناظر ناظر
 6/10/2018



CHECKED
 COPYIST
 ATTESTED
 DATE

ATTESTED

ANNEXURE E

14

بذرائع محمد جنید عالم سولجیج-17/علاقہ قاضی تیمرگرہ ضلع دیرپاکین

11/06

مقدمہ نمبر 514/ سال 2018 تاریخ پیشی 200-05-18

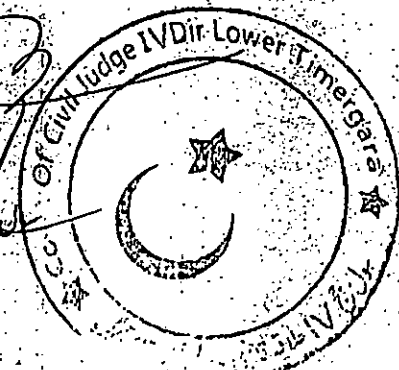
بغیر شمارہ نام محکمہ دارمندان

C

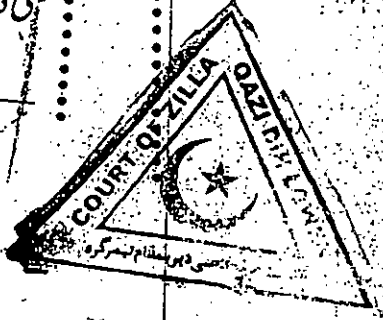
وارنٹ نام:- محکمہ دارمندان دیرپاکین

تذکرہ بالا کو بذریعہ وارنٹ ہذا گرفتار کر کے
مقدمہ عنوان بالا میں لکھا گیا ہے۔ کو عدالت ہذا میں پیش کیا جائے۔
موری 05-10-20 مورخہ 29/8/20

11/0



نمبر 32/19
تاریخ 29/8/20
علی اکبر ربانی



CHECKED
COPYIST
ATTESTED
DATE

Handwritten signature and date at the bottom right corner.

شہداء بیان تعلقہ راجستھان و محلہ فیروز شاہ

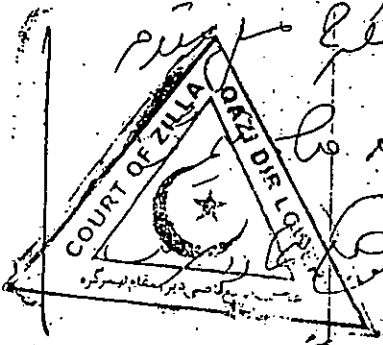
12/10/2020
MMA
0

علقہ بیان کے تحت جس کے عدالت عالیہ کی اور پائی کوہک کے
منیورن (دارالقضاہ سورت) کے رقم حدودہ 28/2018 جو کہ COC
P/2011-411 اور درجہ 2985/2010 WP

بقیوں صحت طبرہ نکاح خیر الملقہ نور بدیم (مختارہ) و جہاں (اندر)
بیج کیل جہاں (ڈیڑھی گنڈیم پانچ) و غیرہ کے تعلقہ کے حق سے
انصیروں بالکے پر دستہ فوری اور عیالت درج نوٹیشن

1522-72/11 SOTA 10/16 سورہ 9/15 سے متعلق ایورے
بابت نشانی / عدالتیں سورہ 9/26 مرتبہ کی یہ عیالت اور فی

تدوین فریڈ و لیریل فریڈ و قلم 33 دن کے لیرا قلم کو
کہ ملکیت بارہ بیاد کوئی دعویٰ باقی نہ رہا اسلئے



پر اٹھائی گئی اذکار AC و پر پانچ AC
موجود ہوئے بالترتیب BPA و BPA
کندہ دیورے مذکورہ بالا BPA کے

CHECKED
COPYIST
ATTESTED
DATE

شہداء بیان تعلقہ راجستھان و محلہ فیروز شاہ
12-10-2020
12-10-2020
12-10-2020
12-10-2020
12-10-2020

ANNEXURE G

16

**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, Quanungu 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

ATTACHED

Handwritten notes and signatures at the bottom left of the page, including "By B/103", "B/12/1030", "Revised", "DC", and "20-11-2020".

بیان ریونیو فیلڈ سٹاف تحصیل آفیس بلائٹ و سابقہ تحصیلدار بلائٹ در

انکوائری آراضی زیر مقدمہ بعنوان مستی نیاز محسّر دلد نظیر محسّر بنام تحصیلدار بلائٹ وغیرہ

جناب عالی!

حسب زبانی ہدایت جناب ایڈیشنل اسسٹنٹ کمشنر صاحب ریونیو تیرگرہ ضلع دیر پائین، بابت انکوائری آراضی در مقدمہ عنوان بالا معروف خدمت ہیں۔ کہ آراضی متدعویرہ بقدری رقبہ (۱۲ خٹہ) محدودہ، محدودات شمالاً بنگلہ / مکان فضل ربانی جنوباً دریائے پنجکوڑہ شرقاً مالو خورڈ اور غرباً بار ایلہ سٹرک، جبکہ مستی محل زادہ و لدر مدر زادہ سکند حال کنٹرول تحصیل بلائٹ (مختیار تمام مسماۃ ظہیرہ ملک دختر محسّر شاہ خسرو خان سابقہ نوڈب آف دیر) نے مستی نیاز محسّر دلد نظیر محسّر سکند انڈھیرے تحصیل بلائٹ ضلع دیر پائین ہر بروئے بیج نامہ خٹروہ (22-10-2008) فروخت کر کے بخورڈہ (2009-02-02) سب رجسٹرار کے دفتر میں باقاعدہ ماسکی رجسٹری بھی کرائی ہے۔ آراضی مذکورہ بحوالہ نوٹیفیکیشن نمبر: (10/16-SOTA-II/72-1520) منقرہ (15-9-1972) کے DCR-105 جو کہ سرکاری اراضیات سے متعلق ہے، سرکاری آراضی گردانی گئی ہے۔ جس کی تفصیل نوٹیفیکیشن مذکور میں کچھ یوں لکھی گئی ہے۔

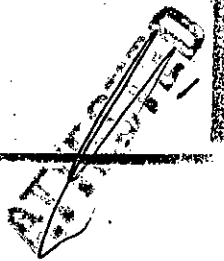
“ 24 Satta of Lalmi Land and 24 Satta of Irrigated Land situated in Timergara.”

گو کہ نوٹیفیکیشن مذکورہ میں درج تمام آراضی کا تحصیل تیرگرہ 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 جوئی کنج
- حدودت 24 خٹہ آبی آراضی :-
- حد شرقی :- متصل بہ سیندر
- حد مغرب :- متصل بہ کالونی بلائٹ
- حد شمالاً :- متصل بہ حد انڈھیرے
- حد جنوباً :- متصل بہ سٹرک جنڈول و میلان پل

آراضی مذکورہ بالا (متدعویرہ) بقدری رقبہ (۱۲ خٹہ) DCR # 105 جو کہ سرکاری اراضیات سے متعلق ہے، کے 24 خٹہ آبی آراضی کے حدود کے اندر واقع ہے۔ یہیں وجہ تحصیلدار بلائٹ کے دفتر سے نیاز محسّر موصوف کو متعدد بار قانونی نوٹسز برائے

(--- جاری برصغیر نمبر 2 ---)



ٹانے تجاوزات برآرائی سیٹ جاری کئے گئے تھے۔ کہ وہ آرائی سرکار میں مندر تعمیراتی کام سے باز و منع ہو کر تعمیر شدہ کام کو بذات خود ہٹائے۔ بصورت دیگر تمہارے خلاف قانونی کارروائی عمل میں لائی جا کر تعمیر سمار کیا جائے گا۔ لیکن بجائے اس کے کہ وہ آرائی مذکورہ میں تعمیراتی کام سے باز رہے۔ اس نے دیوان عدالت / سینئر سول جج صاحب تیمرگرہ دیر پائین سے رجوع کر کے تحصیلدار صاحب بلائٹ و دیگر قلعہ آفسروں کے خلاف دعویٰ بمسرد صدور ڈگری حکم امتناعی دوائی و درخواست بمسرد صدور حکم امتناعی عارضی بموضوع (2015-3-28) دائر کئے۔ اور تحصیلدار صاحب بلائٹ نے عدالت جناب سول جج صاحب / علاقہ قافی صاحب تیمرگرہ دیر پائین جو اب درخواست صدور حکم امتناعی دوائی / عارضی بموضوع (2015-7-24) جمع کر کے استدعا کی کہ آرائی مقررہ سرکاری آرائی ہے جو باقاعدہ طور پر 105 DCR کے ذریعے سرکاری بذریعہ گورنمنٹ پبلیک ڈیولپمنٹ جناب سول جج صاحب II تیمرگرہ دیر پائین مقدمہ عدالت میں درخواست بمسرد واپسی مقدمہ کھنڈا زیر آرڈر 7 رول 10 ض د دائر کیا۔ جسکو عدالت موصوف نے منظور کر کے بموضوع (2016-4-25) درخواست مدعی خارج کیا۔ اور مدعی کو ریونیو کورٹ / کلکٹر دیر پائین کے عدالت میں رجوع کرنے کی ہدایت کی گئی۔ لیکن مدعی مستحق نیاز محسرت نے فیصلہ سول جج صاحب II کے خلاف عدالت ڈسٹرکٹ سیشن جج صاحب دیر پائین نے ماتحت عدالت / سول جج صاحب II کو ریمانڈ کر کے بموضوع (2019-4-19) مدعی نیاز محسرت کے درخواست حکم امتناعی کو منظور کیا۔ اور مدعی کو (Own Cost & Risk) پر آرائی مقدمہ میں تکسیری کام کی اجازت دی۔ اور مدعا علیہم / تحصیلدار بلائٹ و منسرت کو مدعی نیاز محسرت کے آرائی مقررہ سیشن جج صاحب کے رکھنے سے بھی منع ہونے کی ہدایت کی۔ جناب ایڈیشنل ڈسٹرکٹ کرنے کیلئے فیصلہ کے خلاف عدالت عالیہ / پشاور ہائی کورٹ میں اپیل دائر انتظامیہ نے رجوع بھی بروقت کی۔ لیکن Law Department سے Sanction حاصل کرنے کیلئے ضلعی میں اپیل دائر کرنے کیلئے جناب عالی Law Department نے مقدمہ کھنڈا جناب عالی / Sanction نہیں دیا۔

چونکہ مقدمہ کھنڈا بوجہ ریمانڈ ہونے ماتحت عدالت جناب سول جج-17 صاحب تیمرگرہ سال 2020 تک زیر سماعت رہا۔ اور ہم نے عدالت کھنڈا کے بار بار سمن / نوٹسز بابت قلمبند کرنے بیان بابت آرائی مقررہ نوآبی آرائی ہونے کے بارے میں جو بیان عدالت سول جج-17 صاحب تیمرگرہ میں دیا ہے۔ تو اس بابت معروض خان آف دیر نے بذریعہ مختار عام مستحق محل زادہ ولد مور زادہ سکنتہ حال کنڈر تحصیل بلائٹ نے ایک درخواست جناب DCO صاحب دیر پائین کو بغرض نشانی / احادیثی مابین سرکاری و نوابی اراضیات بوجہ Intermix ہونے گزاری تھی۔ جسکو DCO صاحب دیر پائین نے جناب DOR & E صاحب دیر پائین کو ضروری کارروائی جاری برصغیر نمبر 3۔۔۔۔۔)

کیلئے ارسال کیا۔ جسکو DOR & E صاحب دیرپائین نے رائے کیلئے ریونیو ایپیلیٹ کورٹ - III مقام سیدو شریف سوات کو بھیجوائی۔ ریونیو ایپیلیٹ کورٹ - III نے بحوالہ چھی انگریزی نمبری: SWAT - III - RAC - 516 مورخہ (27-10-07) کو جناب DOR & E صاحب دیرپائین کو رائی بھیجوائی۔ جس کے دو سے جناب پوری جائیداد کی تفصیلات مثلاً حدودات وغیرہ فراہم کرنے کیلئے ہدایت کی۔ لیکن عالیہ / پشاور ہائی کورٹ پشاور میں ایک رٹ پٹیشن نمبر: 904/2009 برائے عد براری مابین نوابی و سرکاری 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 / 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) عدالت میں جمع کیا۔ لیکن سائیلہ مذکورہ رپورٹ سے رنجیدہ ہو کر معزز عدالت عالیہ میں برخلاف نسیم خان ڈی جی گشنردیرپائین وغیرہ Contempt of Court 2014/11-P دائر کیا۔ مورخہ (31-3-2015) کو معزز عدالت عالیہ نے ہدایت کی۔ ضلعی انتظامیہ دیرپائین کو ایک Fresh report عدالت عالیہ میں جمع کرنے کی نوابی اراضیات درج نوٹیفیکیشن نمبر: 10/16-SOTA-II/72-1522 کے نشانوں کے 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) پیش کرنے کی ہدایت کی اور سابقہ رپورٹ ہائے کو مبہم لفظوں کے مسترد کیے۔ معزز عدالت عالیہ کے احکامات مسترد نہ ہوئے۔ (21-6-2016) کی تخیل کے سلسلے میں ضلعی جمع کیا۔ مورخہ (28-02-2018) کو معزز عدالت عالیہ نے اپنا مفصل فیصلہ / حکم سنایا۔ کر ڈی جی گشنردیرپائین Petitioners کو سن کر اور Objection اور اس ہی حکم / فیصلہ سناتے ہوئے تین ماہ کے اندر اپنا رپورٹ پیش کریں۔ Petitions پر فیصلہ سناتے ہوئے تین ماہ کے اندر اپنا رپورٹ پیش کریں۔ مورخہ (75-P/2017) میں معزز عدالت عالیہ نے خان آن جنڈول کے طرف سے دائر کردہ سول پٹیشن حکم / فیصلہ مسترد (04-01-2018) کے Para # 11 میں درج ہدایات کو بھی Reproduce کئے ہیں۔ جو کہ حسب ذیل ہیں۔

"In this view of the matters, it is directed that the Senior Member, BOR, shall within three months from the date.

(--- جاری برصغیر نمبر 4 ---)

(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 اراضیات 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 خٹک کے دیگر تحصیلوں مثلاً تحصیل تیمرگرہ اور تحصیل ادینرئی سے متعلق ہیں۔ حکم / فیصلہ معزز عدالت عالیہ کی پیروی و تعمیل کے سلسلے میں تحصیل آفس بلائٹ کی طرف سے جوڈیمارکیشن رپورٹ پیش کی گئی ہے۔ آرائی مقررہ و 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 مقررہ اراضی ملکیت سرکار سے متعلق نوٹیفیکیشن نمبر: (10/16-SOTA-II/72-1520) قرار (15-9-1972) میں درج DCR-105 کے حدود کے اندر واقع ہے۔ لیکن بحوالہ ہدایات آجمناب S.M.B.R صاحب خیبر پختونخوا پشاور جاریہ در Minutes of the Meeting سے، جس میں ہدایات دی گئی ہیں کہ (09-10-2019) پر سیریل نمبر: C کی رو

"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 بر صفحہ نمبر 5) (---)

to the petitioners.

جناب عالی!

مذکورہ کے معزز عدالت عالیہ پشاور ہائی کورٹ / سینگورہ بیچ کے فیصلہ / حکم حمزہ (28-02-2018) در COC No: 411/2014 کے بعد موصی مستحق نیاز شد و لکن نظیر محمد سکھ انڈیا سے تعلق بلائٹ نے ایک درخواست حمزہ (2018-7-11) خدمت آنجناب ڈپٹی کمشنر صاحب دیر پائین گزری۔ جس میں اس نے استدعا کی کہ آراہی مقررہ اس نے برائے بیچ نامہ حمزہ (22/10/2008) مسماہ ظہور فلک دختر نواب محمد شاہ خسرو خان آف دیر سے خریدی ہے۔ اور بعد اسے استدعا کی کہ رجسٹری بمورد (02/02/2009) بھی کرائی ہے۔ اور یہ بھی ہے جائنگ کر رہا ہے۔ لکن رجسٹری صاحب بلائٹ نے جاپور پر اس کو غیر قانونی نوٹسز بھجوا کر کو بی جائنگ کرنے سے بازو منع رہے۔ درخواست مذکورہ جناب ڈپٹی کمشنر صاحب دیر پائین نے سابقہ رجسٹری صاحب تیرگرہ کو برائے Verification بمورد (11-7-018) موقع ملاحظہ کیا۔ اور ساتھ ہی اسے روز سب رجسٹری صاحب دیر پائین سے مذکورہ رجسٹری کے بابت بیچ نامہ حمزہ (02/02/2009) کو رجسٹرڈ شدہ) بھی Verify کیا۔ جو کہ درست رجسٹرڈ شدہ ثابت ہوا۔ اور بعد (2018-7-16) کو درخواست لغائی اراضیات مارگ کیا۔ رجسٹری صاحب تیرگرہ نے بورڈ آف ریلوینو خیر، کھنڈوخوا کو برائے حد براری اپنا رپورٹ پیش کیا۔ جس میں انہوں نے موقع ملاحظہ BOR نے بمورد (31-8-018) کرنے کے بعد آراہی مقررہ کو نیاز شد و لکن نظیر محمد کے نام پر COC کے رپورٹ میں درج کرنے کی سفارش کی ہے۔ مورخہ (2018-9-06) کو سابقہ رجسٹری صاحب تیرگرہ نے اپنا تفصیلی رپورٹ جناب ڈپٹی کمشنر صاحب دیر پائین کو پیش کرتے ہوئے آراہی مقررہ کو بند رہیہ رجسٹری صاحب بلائٹ COC کے رپورٹ میں Incorporate کرنے کا تجویز پیش کیا۔ جسے جناب ڈپٹی کمشنر صاحب دیر پائین نے منظور کرتے ہوئے بمورد (2018-9-06) رجسٹری صاحب بلائٹ کو مذکورہ الفاظ میں ہدایت کی کہ

"Tdr Balambat to incorporate in his report."

جناب عالی!

علاوہ ازیں چونکہ DCR-105 میں 24 حصہ آبی اور 24 حصہ لسی آراہی میکنی سٹیٹ / صوبائی 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 کل رقبہ بشمول DCR-174، DCR-138 و DCR # 395 Para واقع ہے۔ (98 کنال اور 10 ہرے) بنتا ہے۔ (جاری برصغیر نمبر 6۔۔۔۔)

(6)

چونکہ SMBR صائب کے ہدایات اس بارے میں صریح واضح ہیں کہ جہاں پر نوٹیفیکیشن نمبر 1520 اور 1522 سرورہ (15-9-1972) میں درج اراضیات overlapped ہو تو فیلڈ ریونیو فیلڈ سٹاف موقع پر پیمائش کرنے کے بعد ان اراضیات کو Petitioners کو حوالہ کروانے کیلئے clear کریں۔ تو اس وجہ سے بعد از ضروری پیمائش کرنے اور دفتر تحصیلدر بلامبٹ میں موجود ریکارڈ کا موقع سے موازنہ کروانے کے بعد ہم جملہ ریونیو فیلڈ سٹاف نے آرائی متوعوبہ کو نواب اراضیات کے فہرست میں شامل کیا ہے۔ مزید یہ کہ بحوالہ حکم معزز عدالت عالیہ ایشادریائی کورٹ سرورہ (28-01-2010) جس میں 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 موصول ہونے والے متعدد تقریری احکامات بابت نشانیوں، حد بندی و حوالگی نوابی اراضیات کے تعین کے سلسلے میں ہم نے آرائی متوعوبہ نوابی آرائی گروائی ہے۔ اور اس بابت ہم نے عدالت جناب سول جج - 17 صائب ٹیگرہ کے ہم کو بار بار سماعت / نوٹسز جاری ہونے کے بناء عدالت موصوف میں آرائی متوعوبہ نوابی آرائی ہونے سے متعلق مورخہ (12-10-2020) کو بیان دیا ہے۔ لہذا ہم جملہ ریونیو فیلڈ سٹاف کا اسمیں کوئی ذاتی دلچسپی پرگز نہیں ہے۔ لہذا انتہائی ادنیٰ کے ساتھ معروف حضرت ہے کہ ہر بانی معاملہ مفذرا کے بابت ہمارے خلاف انکوٹری کو بلا مزید کارروائی داخل دفتر کیا جائے۔

22-12-2020
علاؤ الدین بیٹوری
تحویل آفیس بلامبٹ

22-12-2020
حضرت حسین سابقہ تحصیلدر بلامبٹ
حال تحصیلدر ادنیتری (چکرہ)
(22-12-2020)

22-12-2020
آمین الدین قانولنگو
تحویل آفیس بلامبٹ

22-12-2020
بلاال سید قانولنگو
تحویل آفیس بلامبٹ
تعیینات تحصیل آفیس ٹیگرہ

ANNEXURE I

23

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.

13/12/20
Javed Iqbal
C.O. Officer

ADDITIONAL ASSISTANT COMMISSIONER (REV)
TIMERGARA DIR LOWER

24

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.

7.30.20
Attested
Javed Iqbal
S.C. Officer

ATTACHED

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 Iqbal
CO-316
DC's Office (L)

ATTACHED



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

26

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.

Additional Deputy Commissioner,
Dir Lower.

Attached
Javed Iqbal
DC's Office (Dir. L.)

APPROVED



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.

[Signature]
Jayed Iqbal
DC's Office Dir (L)

APPROVED



Explanation Folder

OFFICE OF THE
DEPUTY COMMISSIONER
DIR LOWER

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

dcdrlower@gmail.com Deputy Commissioner Dir Lower @dcdrlower 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.

Ay Taidar
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.

Ay Taidar
Deputy Commissioner,
Dir Lower

6.4
الوزير
مستشار
مستشار

RECEIVED

TO

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 Naib Tehsil Accountant and due to his devotion, sincerity, honesty, hardworking and satisfactory performance appellant was promoted as Tehsil Accountant 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

COMMISSIONER
20-05-2021

Attested to be true Copy

Shahid Khan
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 Accountant, along with Amin ud din kanungo, Bilal Said Kanungo 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 Bilal Said Kanungo, Amin ud Din Kanungo 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).

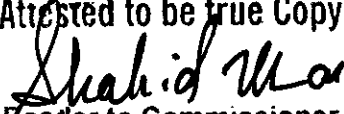
Attested to be true Copy

Shahid Ma
Reader to Commissioner,
Malakand Division,
Saidu Sharif Swat.

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:

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

Attested to be true Copy

 Reader to Commissioner,
 Malakand Division,
 Saidu Sharif Swat.

- 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 I.

Shahid U
 Reader to Commissioner,
 Malakand Division,
 Saidu Sharif Swat.

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 appellant is a civil servant the same has been denied to the appellant.

- J. That the appellant 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 appellant before issuing the impugned order of dismissal which is mandatory under the Khyber Pakhtunkhwa Efficiency and Disciplinary Rules 2011.
- L. That the appellant neither concealed anything from the Honourable Court nor did given any false statement on any forum.
- M. That the appellant 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 appellant.
- O. That the appellant seeks personal hearing before your good self.

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

Appellant

Attested to be true Copy

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

Anwar Zaib
19-05-2021

Anwar Zaib (Ex-Tehsil Accountant Balambat)
District Dir Lower.

ANNEXURE M (34)

34

BEFORE THE COMMISSIONER, MALAKAND DIVISION
AT SAIDU SHARIF SWAT.

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

35

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
Attested to be true Copy
Shahid Ullah
Reader 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



VAKALATNAMA

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR**

APPEAL NO: _____ OF 2021

ANWAR ZAIB (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

SMBR Department (RESPONDENT)
(DEFENDANT)

I/We ANWAR ZAIB
Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK Advocate, 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 cost. 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.

Dated. ____/____/2021

[Signature]
CLIENTS

[Signature]
ACCEPTED
NOOR MOHAMMAD KHATTAK

[Signature]
KAMRAN KHAN

[Signature]
UMER FAROOQ/MOHHMAND

[Signature]
SAID KHAN

[Signature]
& *[Signature]*
HAIDER ALI
ADVOCATES

P 4

Before The Khyber Pakhtunkhwa Service Tribunal, Peshawar.



Service Appeal No. 7138/2021

Anwar Zaib 502 N/S SMBR.

Rest up to the court to decide original file

Application for early hearing of the above title appeal.

Respectfully Sheweth;

- 1) That, the above title appeal is fixed for hearing on 28.10.2021.
- 2) That the case was adjourned due to strike
- 3) That the case is fixed so far and needs to be fixed at an earlier.

It is, therefore, most humbly prayed that on acceptance of the instant application the case be fixed at an earlier convenient date

Appellant,

Through;

Noor Mohammad Khattak
AHC, Pesh.

16th Sep 2021

Needs
NFA
20/09/2021

Handwritten signature and date: 20/09/2021

the Court of Learned Chairman Service
Peshawar.

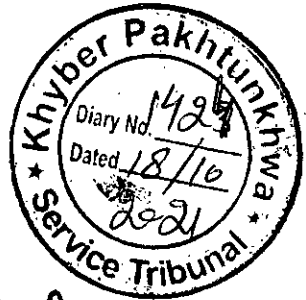
Ismail Rahim

V/S

Secretary Health.

Application for Permission of Submit Money
For Notices to the Respondents.

18/10/2021



Respectfully Sheweth:

Allowed

29/10/2021

Respectfully

1. That above title case is pending before this honorable Court for argument dated 24.12.2021.
2. That above title case was admitted on 13.9.2021 and notices issue by this honorable Court.
3. That Applicant didn't submit money for notice at time due to illness.

It is therefore humbly prayed that on acceptance of this Application may kindly be accepted & permission to submit money for notice to the Respondents.

Petitioner
Mirdal
Nasrominallah
Advocate.
18.10.2021

IN THE COURT OF SERVICES TRIBUNAL PESHAWAR

SERVICE APPEAL NO: 7138/2021

Mr. Anwar Zaib (Appellant)

VERSUS

1. Senior Member Board of Revenue & Others Respondents.

INDEX

S. No	Description of Documents	Annexure	Pages
1	Comments		1-5
2	Affidavit		6
3	Order of Peshawar High Court dated 25-02-2020	A	7-10
4	Letter of AC Timergara No:955 Dated 16-04-2021	B	11
5	Office order dated 05-05-2021	C	12
6	Demarcation Report dated 10-06-2021	D	13-14
7	Letter District Attorney Dated 30-11-2020		15
8	Letter of ADC Dir Lower No:8198 Date 05-04-2021		16
9	Letter AACR Dated 22-02-2021 with Inquiry report dated 28-12-2020		17-20
10	Office order dated 29-04-2021		21
11	Suit filed by Niaz Muhammad		22-24
12	Parcha Degree along with court order dated 20-11-2020		25-31
13	Appeal filed by District Attorney in the court of District & Session Judge		32-36

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

Service Appeal No. 7138/2021

Mr. Anwar Zaib (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 petitioner 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 of rupees has been given to the state.
5. That the present appeal is bad 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 but as far as promotion to the post of Kanungo is concerned it pertains to record.
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 orders dated 28-01-2010 and 11-02-2014 passed in the writ petition No.904/2009 and 2985/2010 respectively. In compliance to the order, the demarcation reports were prepared by the Tehsildar Balambat and the Revenue Staff, which were submitted in the Honorable Peshawar High Court Peshawar and 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.

Dr

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 Courts' 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 uptill 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 and clearly stated 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.

D

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 was based 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 the record on spot, reported that the Tehsildar Balambat and its Revenue staff including the appellant 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 rather 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 the 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. However, 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 for personal hearing was given to the appellant 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.

03

Therefore, the respondent No.03 in light of the inquiry and ground reality /facts has dismissed the appellant and other officials. They were not only entitled for major penalty but are also punishable under PPC too.

9. Incorrect. Proper inquiry has been conducted and 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 the conclusion that appeal of the appellant is meritless as they 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.
12. 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. Incorrect. No malafide with the appellant on the part of respondents is involved but the orders against the appellant have been passed on merit and in light of facts and reality.
- d. Pertains to record.
- e. Pertains to record.
- f. Incorrect. As explained at para No. 09 above.
- g. Incorrect. The appellant has given unauthorized wrong statement against the Govt due to which loss of billions of rupees sustained by the Govt.

Q

5

- h. Correct to the extent that every citizen and functionary of the state is duty bound to obey the orders of court of law but it is also mandatory that the functionary may brought into the notice of superior officers. Rules do not permit any individual / functionary to record wrong statement which ultimately causes loss to the Govt exchequer.
- i. Incorrect, proper inquiry has been conducted against the appellant.
- j. Incorrect. The impugned order has been passed on the basis of merit and no injustice has been done therein.
- k. No comments.
- l. No comments.

PRAYER:

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



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



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

**Deputy Commissioner,
Dir Lower**



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

**Senior Member,
Board of Revenue,
Khyber Pakhtunkhwa**

IN THE COURT OF SERVICES TRIBUNAL PESHAWAR

SERVICE APPEAL NO: 7138/2021

Mr. Anwar Zaib (Appellant)

VERSUS

1. Senior Member Board of Revenue & Others Respondents.

AFFIDAVIT

I **Manzoor Ahmad** District kanungo Office of the **Deputy Commissioner Dir Lower** do hereby solemnly affirm and declare on oath that the contents of the Comments are true and correct to the best of my knowledge and nothing has been concealed from this Honourable court.



**DEPONENT
Manzoor Ahmad**



27 JAN 2022

CA 22

7

A

JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT

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

"Trst. Zulhra Fala' Vs Sohail Khan, Deputy
Commissioner, Dir Lower etc"



JUDGMENT

Date of hearing: 25.02.2020
Petitioner (s) by: M/S Asif-ur-Rehman Yousofzai &
Ahmad Ali, Advocates.
Respondent (s) by: M/S Nasir Mahmood & Muhtar
Ahmad Mianji, Advocates.
Official Respondent(s) by: Mr. Shumail Ahmad Butt, Advocate
General along with 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 Wri. petitions the
petitioner based her claim on the order of
Government of Khyber Pakhtunkhwa, Home &
Tribal Affairs Department, Peshawar dated 13th
September, 2010, passed on her application wherein,
she stated in para No.1 that the petitioner, out of the
legacy of Ex-Ruler (Nawa'b 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

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 W/P No.904/2009, in letter and spirit, without any further delay and conclude the same within a period of two months, after

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

EXAMINER
Peshawar High Court

Handwritten mark

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 Jen Khattak
Hon'ble Mr. Justice S M Alique Shah

[Signature]

TO BE TRUE COPY

EXAMINED
7 of 1004

15 JUL 2020

No. 1650
Date of Presentation of Application 15/7/2020
No of Pages 6
Copying fee _____
Total 200
Date of Preparation of Copy 15/7/2020
Date of Delivery of Copy 15/7/2020
Received By Gen Zaid



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 DATED 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.

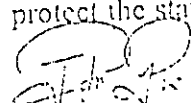
The same was forwarded to the Tehsildar Balambat with the directions that demarcation report may strictly be made according to the directions of Honorable Court subject to protection of state land during the course of demarcation. A certificate was also sought from Tehsildar Balambat that the state land 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

"C" (12)

OFFICE OF THE
DEPUTY COMMISSIONER
DIR LOWER

No. 6786 /Lit:

Dated Timergara the 05/05/2021

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

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. J. Taidar

Deputy Commissioner
Dir Lower

4/5

No. 6787-95 /Lit:

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. J. Taidar

Deputy Commissioner
Dir Lower

4/5

(13) "D"

COT-11

DEMARCATIION REPORT

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 Kasa, 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 retail 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 within a period of three months 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

be made according to the direction of Honorable 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

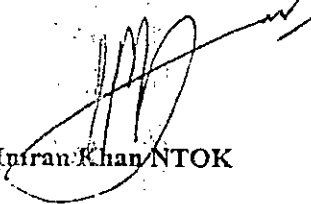
The subject land handed over by ^{field} ~~filed~~ Revenue staff situated within the boundaries of DCR 105 of Notification 1520 dated 15-09-1972, due to which the boundaries of DCR 105 has been affected/violated.


Submitted for perusal and further action as deem fit please.

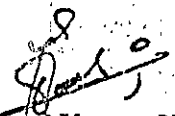

Tehsildar Samar Bhatt
Chairman Committee



Tehsildar Lal Qilla/DK
10/06/2021


Tahir Hassan Kunungo


Infran Khan NTOK


Rahim Said TRA
10/06/2021


Muhammad Younas NTOK
10-6-2021


Altaf Hussain NTOK
10/06/2021

15

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

No. 220-22 / DA / Dir / Lower

Dated: 30 / 11 / 2020

To

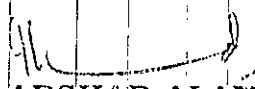
The Deputy Commissioner,
Dir Lower at Timergara.

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

2/10/20
Recd
DC
15-11-2020



OFFICE OF THE
ADDITIONAL DEPUTY COMMISSIONER
DIR LOWER

No. 8198 /ADC, 05 /04/2021

No. 0945-92500137

adcdir:lower@gmail.com

0945-9250001

adcdir:lower@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.

Additional Deputy Commissioner,
Dir Lower.

17

228

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.

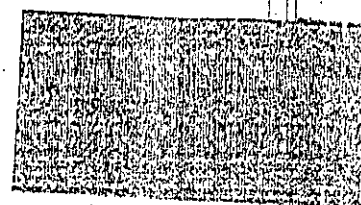
Memo:

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.


Additional Assistant Commissioner (Rev),
Timergara Dir Lower.



18

22-9

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

NO. 304 / Reader/AAC (Rev)
Dated: 23 / 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.

FACIS.

34

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. Zohira 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.

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 subraission of recommendations.

ENQUIYR PROCEEDINGS.

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

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 appellats through District Attorney against the order dated 20.11.2020 of learned trial court.

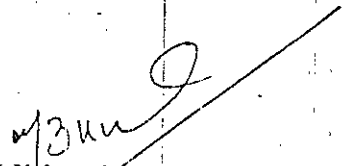
Further no proof was provided by the officials under enquiry that before recording any statement in the learned trial court whether they discussed the matter with the litigation cell of the office of Worthy Deputy Commissioner, Dir Lower or whether any opinion was sought from the District Attorney or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

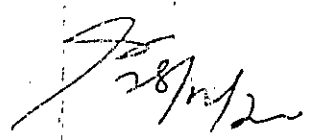
Enquiry report along with relevant documents are submitted for your kind perusal, please.

Encl: As above


Additional Assistant Commissioner (Rev)
Dir Lower at Timergara

28/12/2020

Assistant Litigation
For f/n part up


28/12/20



Exploration Folder

21

OFFICE OF THE
DEPUTY COMMISSIONER
DIR LOWER

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

232

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

OFFICE ORDER

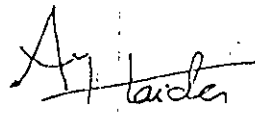
Whereas, the District Attorney Dir Lower vide letter No: 1220-22/DA/Dir/Lower dated 30/11/2020 complained against the following Revenue Field Staff that they have given their joint statement in case titled "Niaz Muhammad VS Government of Khyber Pakhtunkhwa and others" in the Court of Civil Judge-IV Timergara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

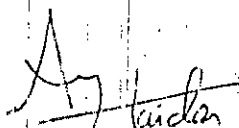
Therefore, in light of the forgoing, the undersigned as a Competent Authority under the rule-d (iii) of the E&D rules, 2011 do hereby impose major penalty upon the above defaulting Revenue Field Staff i.e Mr. Aminuddin, Kanungo, Mr. Bilal Said, Kanungo, Mr. Anwar Zeb, Tehsil Accountant and Mr. Alauddin,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


Deputy Commissioner
Dir Lower

No. 6431 - 35 /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.


Deputy Commissioner,
Dir Lower

لجودالت مناسبت علی سول: جم علامت کافی صاحب دوام برگره
 لجودالت جناب سول: جم اعلیٰ مسلامه کافی صاحب برگره
 نیاز چہ در دہائی لکھنؤ ساکن اندھیرے تحصیل بدین
 ضلع دریا پٹنہ

0-16
 25-4-016

تصیلدار بدین تمام بدین ضلع دریا پٹنہ (بی اسٹے)
 گمشدہ صاحب برگرہ تحصیل برگرہ ضلع دریا پٹنہ (بی ڈی پی)
 گمشدہ ضلع دریا پٹنہ مقام برگرہ (4) حکومت صاحب ۲۲۲
 بذریعہ چیف سکرٹری مقام پٹنہ (بی بورڈ آف ریونیو پٹنہ سکرٹری مقام پٹنہ)
 سماجہ ظہیر منگ و فقیر لایہ خورشاد خان ساکن در تحصیل دریا پٹنہ بدین

دعویٰ حق
 مدعی گو صاحب
 الحکم واپس
 شد
 27/016

دعویٰ مراد صاحب در پٹنہ

حکم امتناعی دہائی بر صدف عدلیا علیم کہ من مہری کی زرفندہ
 جائیداد آراہی قدرتی بارہ سہ لاکھ پندرہ ہزار روپے
 بننگلہ گمان فعل ربانی (بی) جنوباً دریا پٹنہ پٹنہ
 خوردمانو (بی) غرباً دریا پٹنہ پٹنہ پٹنہ
 بینام خدرہ ۱۰/۸ ۲۲۲ و جسٹس ڈیڑھ پٹنہ ۲/۹۰۹
 در عدلیا علیم (بی) اور عدلیا علیم (بی) کو کوئی قانونی اور شرعی حق
 حاصل نہیں ہے۔ وہ من مہری کی جائیداد باقیہ و باقیہ میں
 دخل مداخلت کر کے من مہری کی صفیہ و تعرف میں ڈکاؤں ڈالنے
 یا تعمیری کام و دیگر خالصی بندر غزہ کی تعمیر میں مزاحم ہو کر من
 مہری کو مستفید ہونے سے دواماً باز اور منع ہیں۔

28-3-2015
 Re-submitted today. Be placed on file
 20/7



صدر اور ڈپٹی سول جج اہکانات وغیرہ صاحبان
 عدلیا علیم (بی) آراہی / جائیداد مذکورہ مندرجہ بینام
 ڈیڑھ پٹنہ

ملکیت لغویں کوئی خاص اختیار نہیں ہے۔ ۲۵۵/۲۵۵
 ۲۵۵/۲۵۵

ماتے دکنی صند بزم سے ہر صنف و درجہ کا کھانا اور فصل برداشت کرنے اور نوش
 پینے کا ہر صنف و درجہ کا کھانا اور فصل برداشت کرنے اور نوش
 مصلحت عورت پر پیدا ہوا ہے۔

جناب عالی! مہری ذیل عمر میں ہر سال - 2 -

۱۔ ایک مہری اصل ہشتاد ہفتے تک رہتی ہے۔ اس کے بعد اس کے ہر مہینے میں
 ایک مہری پیدا ہوتی ہے۔ اس کے بعد اس کے ہر مہینے میں

۲۔ ایک مہری کا ہر سال ہشتاد ہفتے تک رہتی ہے۔ اس کے بعد اس کے ہر مہینے میں
 ایک مہری پیدا ہوتی ہے۔ اس کے بعد اس کے ہر مہینے میں

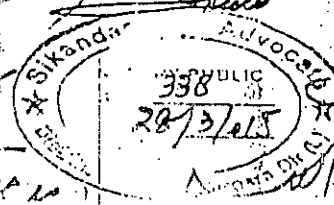
۳۔ ایک مہری جو تک ہشتاد ہفتے تک رہتی ہے۔ اس کے بعد اس کے ہر مہینے میں
 ایک مہری پیدا ہوتی ہے۔ اس کے بعد اس کے ہر مہینے میں

۴۔ ایک مہری جو تک ہشتاد ہفتے تک رہتی ہے۔ اس کے بعد اس کے ہر مہینے میں
 ایک مہری پیدا ہوتی ہے۔ اس کے بعد اس کے ہر مہینے میں

۵۔ ایک مہری جو تک ہشتاد ہفتے تک رہتی ہے۔ اس کے بعد اس کے ہر مہینے میں
 ایک مہری پیدا ہوتی ہے۔ اس کے بعد اس کے ہر مہینے میں

(۱۰) (۱۱)

اسی طرح لاکھوں روپیہ خرچ کر کے آٹا لکھی مذکورہ سند پر بیعنام برائے
 آزادی کا راز مندر بنا گیا ہے۔ مندر لکھی آزادی سے کسی مستفید ہونے
 کا خواہش ہو کر دریا بھر کر آزادی کی حیثیت بحال کرنے کیلئے تیری
 کام شروع کیا ہے۔ عملی تناظر میں مدعا علیہ غلط ہے۔ مگر یہ
 25/3/15 ایک دفعہ اور غیر قانونی اور بے جا نوٹس جاری کر کے
 من مری کو جائیداد فوراً مستفید ہونے میں ڈکارت ڈالنا
 شروع کیا۔ جس کے بعد کورین ہرگز قداران و حجاز نہ ہیں
 ۵۔ یہ کہ من مری ہونے مذکور کا bona fide خریدار از دست نکالی
 و قانونی مالک بلا شرکت غیر ہے۔ اور اس پر بعد از اس لاکھوں روپیہ
 خرچ کر کے برائے آزادی کا راز مندر بنا گیا ہے۔ اور اسی طرح
 دیگر مال کے لئے معلوم فقاری کی بنیاد پر بیعنام جات (اور دیگر) جاری
 عمل میں لائی جا کر موقع تقیرات موجود ہیں۔ اور مذکورین یعنی مالکان
 کو کالیں بنا کر ہو کر استفادہ حاصل کرتے آ رہے ہیں۔ اور یہیں مدعا علیہ
 28/3/15 من مری کی اس حیثیت میں مذاہم ہونے کے درجے ہو کر من مری کو
 یعنی جائیداد پر تیرے سے منع کر رہے ہیں۔ جس کے بعد کورین ہرگز
 قانوناً اور شرعاً قداران نہیں۔ اور یہ اس من مذکور من مری
 مدعا علیہ کو صرف بعد کورین کیا۔ کہ وہ غیر قانونی ہتھیانوں/نوٹس
 کے اس من مری کی قانونی دیکھی جائیداد و تیرے میں دکھاوٹ
 ڈالنے بازا اور متبع ہیں۔ تاہم باوجود علم حیثیت کو مشورے سے مدعا علیہ
 آزادی پر مزاحمت ہیں وہ خائن ہذا کی غرورت لاحق ہوئی
 یہ کہ مالیت لفظ میں لکھتے ہیں اور اختیار ہماہمیت مندر لکھی عنوان غیر مذکور
 بلکہ مملکت چھان کی جائیداد مندر لکھی راز مندر عدالت خددا پیم امور
 عدالت چھان اختیار ہماہمیت قائل ہے۔
 عدالت مالہ استدریانیہ کی ڈگری مندر لکھی عدالت اب
 من مری پر عدالت مدعا علیہ جاری ہے۔



دست نشان
 کورین ہرگز
 ان کے دیکھو ہذا
 عدالت چھان
 راز مندر
 عدالت چھان

مدعا علیہ ہذا غیر مدعا علیہ راز مندر ہذا

25

25

26

رجسٹری

بعدالت محمد جنید عالم سول جج چہارم بمقام تیرگرہ دیر پائین۔

مقدمہ نمبر 514/1

سال: 2018ء

اصل رجوعہ: 28/03/2015

جدید رجوعہ: 11/12/2018

تاریخ فیصلہ: 20/11/2020

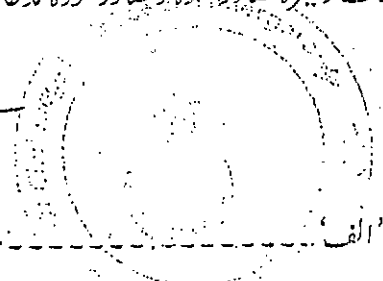
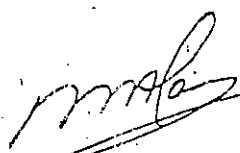
نیاز محمد ولد حاجی نظیر محمد ساکن انڈھیرے تحصیل بلاسٹ ضلع دیر پائین (مدعی)

بنام

(1) تحصیلدار بلاسٹ بمقام بلاسٹ ضلع دیر پائین (2) اسسٹنٹ کمشنر صاحب تیرگرہ تحصیل تیرگرہ ضلع دیر پائین (3) ڈپٹی کمشنر ضلع دیر پائین بمقام تیرگرہ (4) حکومت KPK بڈریوہ چیف سیکرٹری منٹام پشاور (5) بورڈ آف ریونیو بڈریوہ سیکرٹری منٹام پشاور (6) مسماۃ ظہرہ فلک دختر نواب محمد شاہ خسرو خان ساکن دیر تحصیل دیر ضلع دیر بالا۔۔۔۔۔ (مدعا علیہم)
دعویٰ: ہر ادھر دور ڈگری حکم استماعی دواوی وغیرہ۔

(الف)۔۔ حکم استماعی دواوی برخلاف مدعا علیہم کہ من مدعی کی زر خریدہ جائیداد اراضی مقداری پارہ 18 محدود محدودات شمالاً بنگلہ مکان فضل ربانی، جنوباً دریائے چنکوڑہ، شرقاً نور انور، غرباً رابطہ سڑک بر اساس دستاویز/بیعتنامہ نمبر 22/10/2008 درجسٹر شدہ بمورخہ 02/02/2009 از دست مدعا علیہا نمبر 6 ہے۔ اور مدعا علیہم نمبر 1 تا 5 کو کوئی قانونی اور شرعی حق حاصل نہ ہے کہ وہ من مدعی کی ملکیتی جائیداد با قبضہ و با تصرف میں دخل مداخلت کر کے من مدعی کی قبضہ و تصرف میں رکاوٹ ڈالے یا تیسری کام رد دیگر حفاظتی بند وغیرہ کی تعمیر میں مزاحم ہو کر من مدعی کو مستفید ہونے سے دوانا باز اور منح رہیں۔

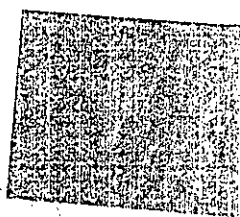
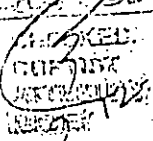
(ب)۔۔ صدور ڈگری برائے منسوخی احکامات وغیرہ صادر شدہ و صادر کردہ مدعا علیہم نمبر 1 تا 5 بابت اراضی/جائیداد مذکورہ مندرجہ بیعتنامہ رجسٹر شدہ۔



حالت بغرض کورٹ فیس و اختیار سماعت جز الف' -200/- روپے

حالت بغرض کورٹ فیس و اختیار سماعت جز ب' -200/- روپے

جاری



96

210

(1)


حکم نمبر 42

20/11/2020

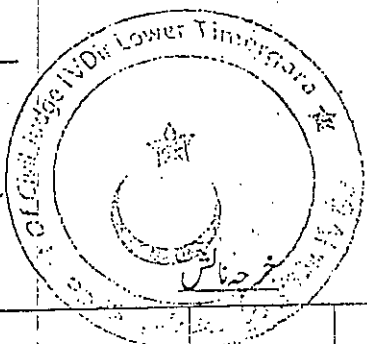
مدعی حاضر۔ مدعا علیہ نمبر 1 و نمائندہ برائے مدعا علیہ نمبر 2 تا 5 حاضر۔ بحث سماعت شد۔ مسل ملاحظہ شد۔
 بروئے سرہری مفصل فیصلہ امروز مشتمل بر 04 صفحات، بحث و کلاء و ملاحظہ مسل سے عیاں ہے کہ
 مذکورین (مدعا علیہ نمبر 1 تا 5) نے اپنا مشترکہ بیان رد و عدالت قلمبند کیا ہے۔ جس میں مذکورین کا جائیداد متذکرہ کے
 ملکیت و قبضہ پارے میں کوئی دعویٰ باقی نہیں رہا۔ جبکہ مدعا علیہا نمبر 6 نے بھی اپنے جواب دعویٰ میں متوقف مدعی کی بھرپور
 تائید کی ہے۔ نیز مسل پر موجود ریکارڈ بھی واضح طور متوقف مدعی کی تائید کرتے ہیں۔
 لہذا مذکورہ وجوہات کو مد نظر رکھتے ہوئے دعویٰ مدعی بحق مدعی بر خلاف 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

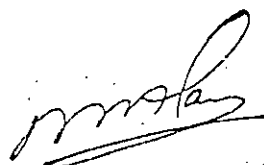

 محمد جنید عالم

سول جج چارم تیرگرہ ضلع دیرپائین

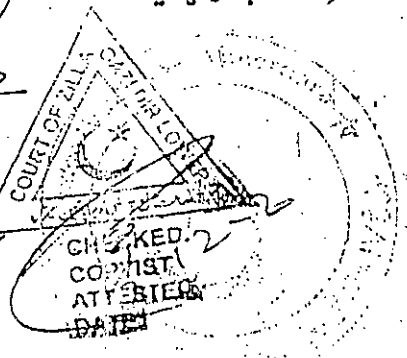


نمبر شمار	روپے	روپے
1	شامپ عرضی دعویٰ	شامپ مختیار نامہ
2	شامپ وکالت نامہ	شامپ وجہ ثبوت
3	خرچہ خورا کہ گواہان	مختار نامہ وکیل بشکل روپیہ
4	فیس اشتہار	خرچہ خورا کہ گواہان
5	فرد طلبانہ	فیس اہل کمیشن
6	متفرق	اجراء حکم نامہ
7	رجسٹری و اخبار اشتہار	کورٹ فیس
	میزان	میزان

آج تاریخ 20/11/2020 بہ ثبوت میرے دستخط و مہر عدالت جاری کیا گیا۔


 محمد جنید عالم

سول جج چارم تیرگرہ ضلع دیرپائین



21

بعدالت محمد جنید عالم سول جج چہارم بمقام تیرگرہ دیرپائین۔

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 بعدالت قلمبند کیا ہے۔ جس میں مذکورین کا جائیداد متدعوئیہ کے
 ملکیت و قبضہ ہارے میں کوئی دعویٰ باقی نہیں رہا۔ جبکہ مدعا علیہا نمبر 6 نے بھی اپنے جواب دعویٰ میں متوقف مدعی کی بھرپور
 تائید کی ہے۔ نیز مسل پر موجود ریکارڈ بھی واضح طور متوقف مدعی کی تائید کرتے ہیں۔
 لہذا مذکورہ وجوہات کو مدنظر رکھتے ہوئے دعویٰ مدعی بحق مدعی بر خلاف مدعا علیہم حسب استدعاء ڈگری کیا جاتا ہے۔
 خرچہ بذمہ فریقین رکھا جاتا ہے۔ مسل بعد از ترتیب و تکمیل داخل دفتر ہو۔

(Handwritten Signature)
 محمد جنید عالم

حکم سناتا گیا

20/11/2020

سول جج چہارم تیرگرہ ضلع دیرپائین

محمد جنید عالم



(Handwritten Signature)
 12.2

22

بعدالت جناب محمد جنید عالم صاحب سول جج چیمبرم تیرگرہ 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 بلاسٹ ضلع دیرپائین (مدعی)

بنام

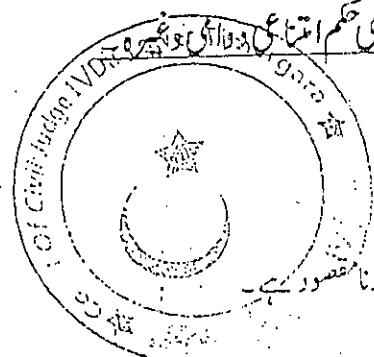
- (1) تحصیلدار بلاسٹ بمقام بلاسٹ ضلع دیرپائین (2) اسٹنٹ کسٹنر صاحب تیرگرہ تحصیل تیرگرہ ضلع دیرپائین (3) ڈپٹی کسٹنر ضلع دیرپائین بمقام تیرگرہ (4) حکومت KPK بذریعہ چیف سیکرٹری بمقام پشاور (5) بورڈ آف ریونیو بذریعہ سیکرٹری بمقام پشاور (6) مسماۃ ظہرہ فلک دختر نواب محمد شاہ خسرو خان ساکن دیر تحصیل دیر ضلع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

دعویٰ بمراد صدور ڈگری حکم امتناعی

سری فیصلہ:

20/11/2020

[Handwritten signature]



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

مدعی نے دعویٰ خود کے جز الف میں صدور ڈگری حکم امتناعی برخلاف مدعا علیہم کی بدیں مراد استدعا کی ہے کہ اراضی متذکورہ مدعی کی زر خریدہ جائیداد اراضی مقداری بارہ سٹہ محدود حدودات شمالاً، جنوباً، مغرباً، مشرقاً، جنوباً دریا، چکڑو، شرفا، توڑ مانو، غر بار، ابطہ سڑک بہ اساس دستاویز: جنامہ محررہ 22/10/2008 درج شدہ ہمورخہ 02/02/2009 از ان 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 تصرف میں دخل مداخلت کر کے مدعی کی قبضہ و تصرف میں رکاوٹ ڈالے یا مدعی کے تعمیری کام ددیگر حفاظتی بند وغیرہ کی تعمیر میں مزاحم ہو کر مدعی کو مستفید ہونے سے دوا ابا از منع رہیں۔ دعویٰ کے جز ب میں مدعی صدور ڈگری برائے منسوخی احکامات وغیرہ صادر شدہ

جاری

[Handwritten signature]

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 انتہائی وغیرہ دائر کی ہے۔ دعویٰ مدعی کے

مطابق مدعی نے جائیداد مذکورہ مندرجہ دستاویز نمبر 22/10/2008 از اس مدعا علیہا نمبر 6 بوجہ ظاہری و کامل مالکہ ہونے

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

ایکٹ بمورثہ 02/02/2009 رجسٹر کرایا گیا ہے۔ جائیداد مذکورہ 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 مجاز نہیں۔

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

بازدفع رہیں تاہم مدعا علیہم نمبر 1 تا 5 انکاری ہوئے۔ یوں با امر مجبوری نالاش ہذا کی ضرورت لاحق ہوئی۔ آخر میں مدعی نے

دعویٰ خود کو ڈگری کرنے کی استدعا کی ہے۔

دعویٰ مدعیان کے تناظر میں مدعا علیہم کو حسب ضابطہ طلب کیا گیا۔ مدعا علیہم نمبر 1 تا 5 کے 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 خلاف 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 متدعو یہ

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

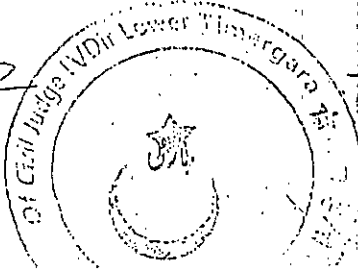
کو درست طور پر بروئے بیعنامہ محررہ 22/10/2008 و رجسٹر شدہ محررہ 02/02/2009 فروخت کر کے قبضہ و ملکیت

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

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

اسی طرح بعدہ مقدمہ بذامیں کارروائی شہادت مدعی شروع ہوئی۔ دوران کارروائی شہادت منجانب دکیل مدعی ایک درخواست بابت شامل مسل کرنے دستاویزات / ریکارڈ پیش کی گئی۔ درخواست میں منوقت اختیار کیا کہ جملہ جائیداد سابق نواب صاحب دیر اور خصوصی طور پر تحصیل بلامبٹ کے جائیداد کی نسبت مسماۃ ظہرہ فلک دختر سابق نواب دیر نے عدالت عالیہ میں ریٹ پیٹیشن بحوالہ گزٹڈ نوٹیفیکیشن 1972 دائر کر کے جو کہ حتمی طور پر Allowed ہوئی۔ باجدا 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 ریونیوشاف کی مدد سے جائیداد سابق نواب دیر کی تخصیص و تعین 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 جمعہ پٹواریان عدالت طلب کیا گیا۔ متعلقہ تحصیلدار بطور مدعا عالیہ نمبر 1 و نمائندہ برائے مدعا علیہ نمبر 2 تا 5 پیش ہوا، اس طرح متعلقہ تحصیلدار کا جمعہ پٹواریان مشترکہ بیان قلمبند کیا گیا ہے۔ جس میں وہ بیانی ہیں کہ عدالت عالیہ پٹواریان کورٹ میں گورہ بیچ (دارالقنا سوارت) 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 سابقہ نواب دیر (محمد شاہ خسر خان) وغیرہ بنام سہیل خان (ڈپٹی کمشنر ضلع دیر پائین) وغیرہ کے تقسیم کی غرض سے ہم نے انسران بالا کی ہدایت پر نوابی اراضیات درج نوٹیفیکیشن نمبر 1522-SOTA-II/72-10/16-15/09/1972 محررہ سے متعلق رپورٹ بابت نشاندہی وحد برادری 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 پٹواریان DC صاحب و AC صاحب پٹواریان EXPB، EXPA موجود ہے۔ جبکہ مرتب کردہ رپورٹ ازال مدعا علیہم نمبر 1 تا 5 بطور EXPC موجود ہے۔

[Handwritten signature]



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

بحث - ساعت 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 رد و عدالت قلمبندی کیا

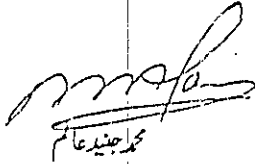
ہے۔ جس میں مذکورین کا جائیداد منڈکویہ کے ملکیت و قبضہ بارے میں کوئی دعویٰ باقی نہیں رہا۔ جبکہ مدعا علیہا نمبر 6 نے بھی

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

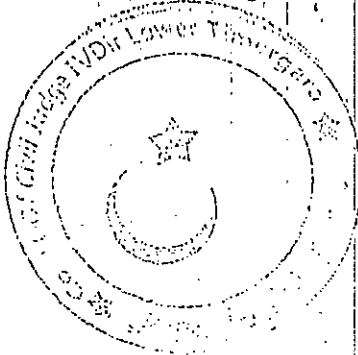
ہیں۔

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 ہر۔


محمد جنید عالم

سول جج چارم تیرگرہ ضلع دیر پائین۔



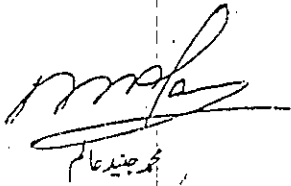
حکم سنایا گیا۔

20/11/2020

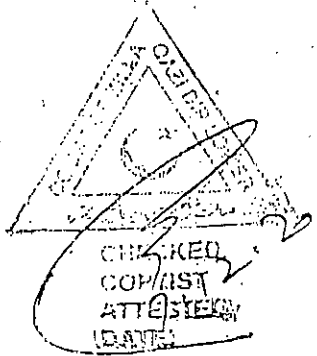
سرٹیفکیٹ۔

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

درست طور پر ثبت ہے۔


محمد جنید عالم

سول جج چارم تیرگرہ ضلع دیر پائین۔



S.No.	2728
Date of Application	7.12.20
Urgent Fee:	1/-
Revenue Fee:	1/-
No of Pages:	4/1
No of Words:	-
Copying Fee:	1/-
Total Fee:	1.80/-
Date of Preparation:	7.12.20
Date of Delivery:	7.12.20
Signature:	

جاری

Judge Di Lower Timoragarah

- (1) Govt of KPK through Deputy Commissioner Di Lower Timoragarah
- (2) Assistant Commissioner Di Lower Timoragarah
- (3) Tehsildar Balambit Di Lower Timoragarah
- (4) Chief Secretary KPK
- (5) Secretary Board of Revenue

Appellants

Versus

Niaz Muhammad s/o Haji Nazir Muhammad R/o 1-12-20
 Andhac Tehsil Balambit Di Lower Distl. 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 dated 02/02/2009.

That the official Respondents 1 to 5 and private respondent NRG submitted written statement. 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 with out recording any Pro and Contra evidence. (Attached copy of judgment/order dated 20/11/2020 attached)

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

Grounds

1) That the judgement / 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 summary 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 placed some documents on official court file and 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 authorized to do so and record statement at its own.

6 That the appellants were neither allowed to cross examine the Revenue official nor their property is the subject matter of suit. Property is the subject matter of suit and also lies in their possession.

2) That the plaintiff filed the suit without following the mandatory provisions of Section 79C and Article 174 of the Constitution of 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

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. Any other relief not specifically asked for, may please be granted to the appellant in interest of natural justice.

Appellants
Dist Attyy
1/12/20

14)

through

Dist Attyy
1/12/20

Vertical text on the left margin, possibly a stamp or reference number.

Before The Court of Judge Div Lower

- 1 Govt of KPR through Chief Secretary.
- 2 Govt of KPR through Deputy Commissioner Police Appellants.

Versus
Niaz Muhammad s/o Haji Nazir Muhammad R/o Andhara
Tehsil Balambat Div Lower Respondents.

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

Respectfully Sheweth

- 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.

Respondents/Appellants
Dist Attorney Div Lower

That contents of appeal are true to Court.

Deputy District Attorney
Div Lower at Timerganj.