

ORDER SHEET
IN THE HIGH COURT OF SINDH AT
KARACHI

SUIT NO.1968/2023
& SUIT NO.2019/2023

Date Order with signature of Judge

Suit No.1968/2023:

1. For hearing of CMA No.19660/2023
2. For order on Nazir report dated 20.12.2023

Suit No.2019/2023:

For hearing of CMA No.20256/2023

23.12.2023

Mr. Govinda Raj Lohana advocate for plaintiffs.

Mr. Mehran Khan. Assistant Attorney General.

Mr. Khalid Chachar, Secretary, Culture, Tourism,
Antiquities and Archives (CTA&A) Department,
Government of Sindh.

Mr. Ashraf Ali Mirani, Law Officer, CTA&A
Department,

Mr. Manzoor Ahmed Kanasro, D.G. Antiquities,
CTA&A Department.

Mr. Zahid Abbas Ahmed, Director Culture, CTA&A
Department (focal person).

Mr. Abdul Fattah Shaikh, Director Archeology, CTA&A
Department.

Mr. Roshan Ali Kanasro, R.D. Planning, Development,
Monitoring & Implementation Cell (PDM&IC),
CTA&A Department.

Professor Altaf Aseem, Archeology, CTA&A
Department.

Professor Qasid H. Mallah, Shah Abdul Latif University
(SALU), Khairpur.

Mr, Iftikhar Mangi, EXN.

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1. Mr. Suhail Latif Memon advocate files application under Order I Rule 10 CPC in Suit No.1968/2023, which is not objected by learned counsel for plaintiff, same is allowed. Plaintiff shall file amended title by joining intervenor as defendant number 6. Office shall assign number to this application.

2. Report on order dated 23.12.2023 in Suit

1. Mr. Suhail Latif Memon advocate files application under Order I Rule 10 CPC in Suit No.1968/2023, which is not objected by learned counsel for plaintiff, same is allowed. Plaintiff shall file amended title by joining intervenor as defendant number 6. Office shall assign number to this application.

2. Pursuant to order dated 14.12.2023 in first captioned suit, Secretary, Culture, Tourism, Antiquities and Archives Department, is present alongwith D.G. Antiquities, Director, Archeology, and other officers named above; he submits compliance report, taken on record.

3. Preserving historic places of communities contributes to keeping its unique values, character, and momentous beauty. The restoration of history preserves the identity and roots of people and their communities. The benefits of historic preservation do not only incorporate a nation's cultural worth, it is also beneficial to educational, environmental, and economic advantages. All the aspects in which historic restoration contributes to enriching humanity are inseparable and fundamental to connecting the past to a better future. Historic architecture is way to know past of the Nation and take pride in it. Investing in the only physical connection we have to keep the worth of our history and culture is very important to us and future generations. Historic preservation in some local communities is important for tourism and the economy. It offers job opportunities and helps in nourishing economic prosperity. Locals benefit a lot from the tourists who like to visit historic places, enjoy the culture, and experience the spirit of the past.

4. All historical buildings and sites are a gem of humanity. Some of the buildings or sculptures are produced through the creators' lifetime. Thousands of people were sacrificed in the building of the huge sites. Historical places are the live documentation of a specific historical period or historical event. They can help the historians and archeologists to get first-hand information to come up with a revolutionary theory or confirm what the historical document tells about their culture.

5. Needless to mention that Secretary Culture shall notify a Committee under his chair alongwith Professor Qasid H. Mallah, Mr. Badar Abro, Historian, Professor Altaf Aseem, Archeology, CTA&A Department, Mir Ahmed Mangrio advocate Supreme Court, and two other members opted by the Chairman at the advice of the Committee in addition to earlier committee notified by the Culture Department pursuant to judgment of this court, and following ToRs in addition to earlier ToRs :-

- a) The Committee shall frame criteria of rehabilitation work and promotion of the sites, which have already been declared under the Ancient Monument Preservation Act 1904.
- b) The Committee shall submit workout mechanisms with regard to the provision of information to a common/ usual visitor and also for foreign visitors, and to devise a mechanism to ensure providing of all facilities to tourists at sites, which include digital tools.
- c) The committee shall ensure that except properties declared under the Ancient Monument Preservation Act 1904, no new project/scheme of rehabilitation shall be launched until the Committee formed as referred above, decides the characteristics/historical value of the heritage sites notified in the year 2019 which require further study.
- d) That committee shall also examine the criteria of recruitment in Culture Department from BPS-17 onwards and shall include bachelor and master degrees Social Sciences, History, Archive, Library Sciences, and other relevant subjects for those posts and amend the Rules and Bye-laws within two months, thereafter the Department shall send requisition to SPSC to fill up the vacant posts.

6. It has come on record that in Khyber Pakhtunkhwa, formation of Tourism Police Force is a unique initiative of its kind which is aimed at providing a peaceful, safe and tourism-friendly environment to tourists in Khyber Pakhtunkhwa, it is therefore expected that, Culture Department must ensure that like nature Tourism Police Force is also introduced here in the Province of Sindh for providing all the possible tourism friendly environment. In this regard, the Committee shall deliberate and evaluate the KP Tourism Police Force and provide mechanism for the same establishment in the Province of Sindh.

7. Culture department shall recruit tour guides as directed by this court on various occasions and shall also ensure implementation of concept of audio tour guides with the qualifications of History/Archive/Culture. At this juncture, Professor Qasid H. Mallah contends that he is ready to provide training to tourist guides and that such training will require three months, as and when recruited the by the Culture Department. The guides must know geography, history, culture and/or architecture of a destination, where the transfer of information to tourists is crucial for understanding the established attractions and the destination's character

such knowledge would be helpful in finding (not making) connections between what is being experienced and what tourists already know, especially if the tour guides used it to draw attention to attractions' and destinations' character and uniqueness.

8. Culture Department shall introduce more efficient modern methods of transmitting information with scientific tools informing the tourists about history of Mohenjo-daro, Bhanbhore, Kot Diji, Rohri Hills, like Lok Versa at Islamabad. As a pilot projects they shall start from Mohen-Jo-Daro and Bhanbhore.

9. At this juncture Mr. Abdul Fattah Shaikh, Director Archeology, CTA&A Department, present in Court and contends that Rs.1.5 Million have been deposited two years back with the Department of Board of Revenue, on account of keeping the mutation entries on record of rights in favour of the Culture Department, but no fruitful results have been achieved. In such an eventuality, directions are hereby issued to Senior Member Board of Revenue and concerned Deputy Commissioners, in whose jurisdiction such Culture Department's property/site is situated, to get those mutation entries effected preferably within two months without fail, else contempt proceedings will be initiated against the delinquent officials. Secretary, Culture Department, shall provide list of those properties to the Revenue Secretary, Senior Member Board of Revenue Sindh who shall ensure that those properties are entered in the record of rights as properties in the name of Culture Department. In this respect, Secretary, Culture shall also constitute a committee of officers under the chairmanship of Mr. Abdul Fattah Shaikh, that committee shall ensure that subject mutation of the properties is effected within stipulated time.

10. With regard to tourist guides on contingent basis, Culture Department shall move a summary to the Finance Department that shall release the amount if such practice is already in field. However tourist guides shall be among the candidates who have qualified the test of IBA in last two years.

11. At this juncture Mr. Suhail Lateef Memon advocate/defendant No.6 in first captioned Suit, contends that in British Ira, Clock Towers/*Ghanta Ghar* were established in the heart of cities like Sukkur, Hyderabad, Shikarpur, etc. but Culture Department as well Local Government have failed to maintain them. According Deputy Commissioner(s) of respective Districts shall ensure removal of encroachment around them within two months and maintain the same alongwith the clocks working, however *Pakka* construction shall be not disturbed and such report shall be submitted. Culture Department shall also examine the same if they fall in the category of heritage.

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11. At this juncture Mr. Suhail Lateef Memon advocate/defendant No.6 in first captioned Suit, contends that in British Era, Clock Towers/*Ghanta Ghar* were established in the heart of cities like Sukkur, Hyderabad, Shikarpur, etc. but Culture Department as well Local Government have failed to maintain them. According Deputy Commissioner(s) of respective Districts shall ensure removal of encroachment around them within two months and maintain the same alongwith the clocks working, however *Pakka* construction shall be not disturbed and such report shall be submitted. Culture Department shall also examine the same if they fall in the category of heritage.

12. Secretary Culture shall submit list of ancient properties declared under the Ancient Monuments Preservation Act 1904 alongwith notifications on next date of hearing and categorize the ancient properties having heritage and antiquities value in three categories; first category shall consist of all those properties which were declared under the Act of 1904, 2nd category shall include all those properties which are public properties and have been declared ancient/heritage and 3rd category shall mention properties owned by the private persons.

13. Attendance of the Secretary Culture is dispensed with. This Court appreciates the efforts taken by him with regard to establishment of information desks at Bhanbore and 10 other sites as informed by the Secretary. It is expected that on same pattern they shall ensure such type of information desks at other sites as well and shall explore new methods in this regard.

14. Being part heard, to come up on 14.02.2024 at 11.00 a.m. Office to communicate this order to all concerned and place copy hereof in connected case.

IN THE HIGH COURT OF SINDH AT KARACHI
(Original Civil Jurisdiction)

Suit No. 1968 / 2023

M/S. SAIF ENTERPRISES

Through its Authorized Person,

SARMAD ALI

S/o Allah Dino Mangi,

Having office at: Flat No. A-1/3, First floor

SHERTON SQUARE @ Plot No. ST 4/3/14,

University Road.

Karachi

PLAINTIFF

V E R S U S

1.) THE PROVINCE OF SINDH

Through SECRETARY

Culture, Tourism, Antiquities

& Archives Department,

Having Office at 3rd Floor Tughlaq House,

Sindh Secretariat, Karachi.

2.) THE DIRECTOR GENERAL (D.G)

Antiquities & Archaeology, CTA Department,

Government of Sindh

Having Office at Banglow No. C-82, Block-2,

Clifton, Karachi.

3.) THE DIRECTOR (A&A)

Director General of Antiquities & Archaeology,

Department, Government of Sindh,

Address: Banglow No. C-82, Block-2,

Clifton, Karachi.

4.) THE CONVERSATION OFFICER

Culture, Tourism, Antiquities,

& Archives Department, Government of Sindh,

Having Office at Banglow No. C-82, Block-2,

Clifton, Karachi.

5.) THE DIVISIONAL ACCOUNTS OFFICER,

Culture, Tourism, Antiquities,

& Archives Department, Government of Sindh,

Having Office at Banglow No. C-82, Block-2,

Clifton, Karachi

DEFENDANTS

Assistant Registrar
Affidavit & Identity (A.S.)
High Court of Sindh
Karachi

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**SUIT FOR RECOVERY OF AMOUNT RS. 195.00 MILLION
(NINETEEN CRORE AND FIFTY LAC RUPEES & COMPENSATION)**

The Plaintiff respectfully submit as under:-

- 1) That the plaintiff is a **Government Contractor** and has been working in the filed with the name & style of M/s Saif Enterprises (Sole Proprietorship Concern) which is registered with P.E.C for civil and mechanical works and Plaintiff enjoys valuable reputation. Further, Mr. Sarmad Ali S/o Allah Dino Mangi has been Authorized by the plaintiff vide Authorization letter Dated:-**28-11-2023** to file instant suit.

(Copy of authorization letter, P.E.C Certificate and tax certificate are as Annexure P to P-2).

- 2) That the defendants being Officials of Culture, Tourism, Antiquities & Archives Department, Government of Sindh, awarded a contract to the plaintiff vide contract agreement & work order No.16 Dated:-**15-10-2021** signed by defendant No.4 which relate to conservation, preservation and rehabilitation of "Tilla Shah Grave Yard At District Sanghar" upon the agreed terms & conditions mentioned in contract agreement / work order, So also, such process to award contract proper advertisement was made in different newspaper and bids were called whereof plaintiff remain successful.

*(Copy of contract agreement, work order dated:-**15-10-2021** & advertisement is annexure P-3 to P-B)*

- 3) That after obtaining tender / work order as mentioned above, Plaintiff timely mobilized its machinery, relevant material & team accompanied with labor at the SITE and plaintiff fully performed his part upto the entire satisfaction of SITE Engineer & others local representatives of defendants deputed there and till date there is nothing adverse to the plaintiff.
- 4) That it is worth to mention here that initially tender was amounting to Rs.28,122,982 (*Rupees twenty Eight Million One hundred Twenty Two thousand Nine Hundred eighty Two Rupees*) but soonafter the start of rehabilitation work by the plaintiff, on visit by officials and feeling requirement / need to repair of additional tombs, defendants verbally revised work estimation on site under the commitment with plaintiff to prepare necessary documents shortly and to release the payments smoothly. However plaintiff continued with such further rehabilitation work as revised by defendants in view of condition No.10 as per work

order just in the good faith, whereof plaintiff kept submitting the bills / demand request for the release of payments time to time.

- 5) That admittedly, defendants has released an initial amount of Rs.23,255,501 on 04-11-2022 as to 1st running account bill under the cover of certificate to measurement & verification of first portion of work done by the plaintiff which fact clearly reflects from M.B certificate signed by defendant No.4, contractor and other officials, which was supposed to be part payment as per 1st running account bill in the light of orally revised Estimation and work assigned to the plaintiff.

(Copies of certificate dated:-19-10-2022, govt. cheque and D.D.O form for works payments are annexure P-4 to P-6)

- 6) That it is also fact that plaintiff has completed all the revised work initially and subsequently assigned by the defendants almost seven month ago which was carried as per specification under the supervision of SITE engineer deputed by the defendants however since completion of work at SITE, plaintiff has been requesting for verification to record M.B and claiming outstanding payments vide bills/demand letters submitted but for the unknown reasons defendants are reluctant to record the M.B and verify the work and also a huge outstanding amount of the plaintiff has been unauthorizedly withheld by the defendants without any lawful justification & reasons.

(Copies of photographs showing before and after status of Tombs rehabilitated by the plaintiff are annexure P-7 to P-7)

- 7) That it is obvious and un-deniable fact that plaintiff has carried rehabilitation work at "Tilla Shah Grave Yard at District Sanghar" upto the extent of orally revised estimation by the defendants which is now 100% completed by the plaintiff from his own sources and thus, total claim in this behalf is appearing from demand letters submitted by the plaintiff addressed to the defendants but defendants did not bother any of the request of the plaintiff, hence malafide on the part of defendants is well evident from this very contention.

(Copies of letters dated:-18-11-2023, 27-10-2023, 16-09-2023, 26-08-2023, are enclosed as annexure P-48 to P-51)


Assistant Registrar
Affidavit & Identity (A.S.)
High Court of Sindh
Karachi

8) That though the aforesaid huge amount of the plaintiff has been indulged/withheld un-authorizedly by the defendants which is outstanding since last seven months, where to, the plaintiff severally approached defendants but no avail, hence such failure of defendants to release the outstanding amount of plaintiff has not only caused deliberate deprivation of the plaintiff towards its lawful rights but such acts of defendants amount to misuse of their official authority which might be for their personal undue gain or otherwise.

9) That due to delay in release of said huge outstanding amount, the plaintiff is not only suffering from serious financial loss at the hands of defendants but also plaintiff is facing severe shortage of funds to meet its other liabilities/commitments in market and therefore, plaintiff is fully entitled to claim compensation/damages against defendants on account of their malafide failure to release the amount of plaintiff within reasonable time as such claim of compensation by plaintiff is validly placed upto Rs. 10. Million i.e: (One Crore Rupees) excluding loss of profit at the rate of 20% per annum on total amount from the date when payment became due against defendants w.e.f 26 August 2023 till realization of said outstanding amount.

10) That no doubt, defendants are under definite obligation/liability to release the outstanding amount i.e Rs. 195.00. Millions (Nineteen Crore And Fifty Lac Rupees) to the Plaintiff against 100% work done/completed months ago but defendants are deliberately avoiding to pay the outstanding amount hence very fact has given rise to a valid cause in favor of plaintiff to sue against Defendants for the redressal of its grievance hence plaintiff has decided to file recovery case of outstanding amount upto lenth as mentioned above.

11) That in-spite of completion of 100% work on SITE as assigned by the defendants and in view repeated demands by Plaintiff to release of payments when defendants have miserably failed to pay outstanding amount as mentioned above, the plaintiff is not left with option except to avail legal remedy as per law, hence present suit.



Assistant Registrar
Affidavit & Identity (A.S.)
High Court of Sindh
Karachi

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12) That the cause of action for filing present suit, initially accrued in the favour of plaintiff when defendant proposed tender & accepted bid of the plaintiff and awarded contract vide work order No. 18 Dated:-15-10-2021 to be agreement and cause of action Secondly accrued when defendants 1st running account bill Dated:-04-11-2022 further accrued when plaintiff completed work well on time even as per revised estimation but defendants have failed to release the payment to the plaintiff as committed nor defendants are showing positive intention, and cause of action further accrued when defendants have failed to record M.B on SITE & to verify the work done by the plaintiff as per produce and their exist apprehension of deterioration of finishing work hence cause of action continues till date for filing present suit.

13) That the present suit is valued Rs. 195.00. Millions i.e: (Nineteen Crore And Fifty Lac Rupees) for recovery of principle outstanding amount whereas claim of compensation / damages on the basis of delay in release of the payments by the defendants and on base of agonies suffered by the plaintiff is placed at Rs. 50,00000/- (Fifty Lac Rupees) as such collectively, present suit is valued to the total Rs. 200.00 Millions (Two Hundred Million) which comes within the pecuniary jurisdiction of this Court, hence Honorable Court has ample jurisdiction to entertain present suit.

14) That though the defendants have their offices at Karachi and tender was offened & accepted in Karachi, so also work order reflect Karachi address hence Honorable Court at principle seat at Karachi has territorial jurisdiction of the matter.

15) That the maximum Court fees has been affixed on the face plaint.

[Handwritten signature]


[Handwritten signature]
Assistant Registrar
Affidavit & Identity (A.S.)
High Court of Sindh
Karachi


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PRAYER

It is therefore, respectfully prayed on behalf of the Plaintiff that this Honourable Court may be pleased to pass judgment & decree in favour of the Plaintiff and against the Defendants jointly/severally in following manner:-

- i) To direct the defendant No.1 to 5 for the immediate release of the payment i.e:- Rs. 195.00. Millions (Nineteen Crore And Fifty Lac Rupees) to the plaintiff same being principal outstanding amount against defendants on accounts of work done by the plaintiff.
- ii) To direct the defendant No. 1 to 5 jointly & collectively to pay compensation/damages to the plaintiff upto Rs.5000000/- (Fifty Lac Rupees) in lieu of undue. Unlawful delay in release of payment which caused financial loss and agonies to the plaintiff at the hands of defendants.
- iii) To direct the defendants to pay loss of profit at the rate of 20% percent on the total amount since 26-August-2023 when original payment became due against defendants till the realization of outstanding amount.
- iv) *not press. for summons.* Meanwhile the pendency of present suit, NAZIR of this Honourable Court be directed to conduct joint inspection at SITE to ascertain & verify status of work done on SITE by the plaintiff, So that defendants are not ready to record M.B mala-fidely and finishing work is to deteriorate with every passing day.
- v) Cost of suit.
- vi) Any other reliefs which this Honourable Court may deem fit in the circumstances of matter.


PLAINTIFF
(Authorized Person)


ADVOCATE FOR THE PLAINTIFF


Assistant Registrar Karachi
Affidavit & Identity (A.D.) dated: 30.11.2023
High Court of Sindh
16/11/2023

VERIFICATION


Muslim Adult
I, Mr. Sarmad Ali S/o Allah Dino Mangi having office at: Flat No.A-1/3, First floor, SHERTON SQUARE @ Plot No. ST 4/3/14, University Road, Karachi, the Authorized person of the plaintiff in the above matter, do hereby declare and verify on Oath that the facts stated hereinabove are true to the best of my knowledge and belief.

Karachi.
Dated:-30-11-2023


Assistant Registrar
Affidavit & Identity (A.S.)
High Court of Sindh
Karachi


DEPONENT.
MR. SARMAD ALI
CNIC NO.45504-0923826-3

Identified by the Counsel.


ADVOCATE FOR THE PLAINTIFF

THE HIGH COURT OF SINDH AT KARACHI

Suit No.1968 & 2019 of 2023.

Safi Enterprises

Applicants

Versus

Province of Sindh and others

Respondents

Suhail Latif Memon Advocate

Interveners

APPLICATION UNDER ORDER 1 RULE 10 CIVIL PROCEDURE CODE, 1908.

It is respectfully prayed before, this Honourable Court, that this Honourable Court may kindly be pleased to allow this present application made under order 1 and rule 10 CPC, and may please pass such order to implead the present applicant as intervening applicant/respondent, in the present Suit and thereafter, some necessary and appropriate order may kindly be passed, considering the following important and necessary facts;

1. That, the present applicant is a pro'bono publico litigant and has filed number of like nature applications, constitution petitions and other proceedings before the competent Courts of Law, for the able assistance of the Honourable Courts.
2. That, the present suit proceedings are mainly related to archeology, ancient and historical places and properties.
3. That prior to this, this Honourable Court had passed a judgment Dated 18.05.2023, in C.P.D- No. 1105 of 2018, the relevant paragraphs are reproduced herewith for kind perusal;

"6. Before proceeding with the earlier orders, it needs to reiterate here, that the crushers may be used to reduce the size or change

the form, of waste materials, so they can be more easily disposed of or recycled, or to reduce the size of a solid mix of raw materials (as in rock ore), so that the pieces of different composition can be differentiated; however, crushing plants installed are failed to act with the conditions laid down in the mining permit as lease holders have to prevent hazards to human or animal or life or the property of others and the environment as well. Besides, at the site there are activities of dynamite blasting and crushing the rocks, which causes respiratory disorders not only to human but animals as well, due to inhalation of fine dust particles, so also causing damages to the historical sites declared as heritage sites, which are protected under relevant laws, lowers agricultural yield as the dust covers the leaf surface of the plants and poor visibility near the crushers. Nevertheless, stone crushing was known to affect both surface and ground water regime.

7. Pursuance to order dated 16.02.2023, the Director General Mines & Minerals Development Department, Sindh Karachi, files statement, wherein it has been mentioned that in compliance with the directions contained in para-12 of aforesaid order, the draft Rules "The Sindh Mines and Minerals Governance Rules 2023" has been forwarded for vetting to the Law Department. In this regard a letter dated 27th February, 2023 has been addressed to the Secretary to Government of Sindh, Law and Parliamentary Affairs and Criminal Prosecution Department Sindh Karachi, and annexed. Thus, the Secretary law department shall ensure vetting of the draft rules submitted by the Mines and Minerals department in line of relevant laws including, The Environmental Protection Agency Act, 1997, The Pakistan Environmental Protection Act 1997, i.e National Environmental Quality Standards (NEQS) and international protocols settled by the international organizations i.e United Nations, UNESCO. Needless to say that the Pakistan being signatory of various UN Conventions including "Convention concerning the protection of the World Cultural and Natural Heritage 1976¹, and certain rules are framed to rules and principals to governing the protected areas, resources and heritage² i.e Rule 136 to 141 which says that the area, land, and its resources are the common heritage of mankind and the same are bestowed in humans as a whole, on whose behalf the Authority shall act, even the State should not alienate, or lease particularly the raw materials, extracted, mined therefrom, except in accordance the law and rules, regulations and procedures of the Authority. The State is responsible to protect, preserve and save these areas from damage and all the activities ought to be for the benefit of the human beings without discrimination as the right to life is not restrained to biological physical life but more than and as enlightened the scope of Article 09 of the Constitution of Pakistan by the Supreme Court of Pakistan in the case of Shehla Zia Vs WAPDA PLD 1994 SC 693³

Article 9 of the Constitution provides that no person shall be deprived of life or liberty save in accordance with law. The word life is very significant as it covers all facts of human existence. The word life has not been defined in the Constitution but it does not mean nor can be restricted only to the vegetative or animal life or mere existence from conception to death. Life includes all such amenities and facilities which a person born in a free country is entitled to enjoy with dignity, legally and constitutionally. A person is entitled to protection of law from being exposed to hazards of electromagnetic fields or any other such hazards which may be due

to installation and construction of any grid station, any factory, power station or such like installations. Under the common law a person whose right of easement, property or health is adversely affected by any act of omission or commission of a third person in the neighbourhood or at a far-off place, he is entitled to seek an injunction and also claim damages, but the Constitutional rights are higher than the legal rights conferred by law be it municipal law or the common law is bound to affect a large number of people who may suffer from it unknowingly because of lack of awareness, information and education and also because such sufferance is silent and fatal and most of the people who would be residing near, under or at a dangerous distance of the grid station or such installation do not know that they are facing any risk or are likely to suffer by such risk. Therefore, Article 184 can be invoked because a large number of citizens throughout the country cannot make such representation and may not like to make it due to ignorance, poverty and disability. Only some conscientious citizens aware of their rights and the possibility of danger come forward.

4. That, in this connection paragraphs no 18 and onwards are also important, of above said judgement, therefore same is also reproduced;

18. Had, the above candid directions have been complied with, in its later in spirit, further proceedings would have not been warranted, rather the situation has become more aggravated, therefore, the concern quarters are liable to be prosecuted owing to their careless, contemptuous attitude. Be, that as it may, the mining activity of limestone is limited to the upper surface of the earth for which no deeper excavation and proper formations of underground mines are needed. Although, limestone is not a precious or semi-precious stone; yet the same is not a valueless item. It is an important raw material for cement manufacturing, while it is also used in some other industries. We consider that when gravels and other stones are available for concrete aggregates, the Mining Department should be careful while giving leases and preference should be given to limestone mining for industrial purposes; besides it does not require any exploration as the limestone can easily be detected and estimated without applying any sophisticated equipment.

19. Moreover, the power to grant Exploration License and its renewal in respect of "Granite" is governed by the Sindh Mining Concession (Granite) Order, 2007 read with The Regulation of Mines and Oil fields and Mineral Development (Government Control) Act, 1948 & Sindh Mining Concession Rules 2002 (Now the Sindh Mines and Minerals Governance Rules 2023). Thus, while grant or renewing Exploration License, the aforesaid Laws/Rules/Order shall be strictly followed especially by inviting competitive bids through publication newspapers having wide circulation.

20. Besides, this Court in CP.No.D-133 of 2015 by judgment dated 27.09.2017 directed that "while full force of the 1975 Act and other applicable laws be deployed to preserve the protected antiquities subject matter of the Notification dated 23.03.2007, but all further acts or proceedings taken by the

respondent pursuant to the Notification issued under section 10 shall be conducted and carried out in strict compliance of the provisions of said 1975 Act and if any case of a compensation is made by the land owners, it should also be dealt with under the provisions of the said 1975 Act."

21. Perusal of above reflects that these directions were passed while deciding the petition pertaining to the Lakhajjo-Daro and in similar way this Court in petition No.D-2973 of 2016, while dealing with same nature case i.e. heritage issue observed are held that:-

"12. There had been number of enactments for preserving and protecting the antiquates etc, but we would not discuss other laws enacted from time to time for preservation of antiquates etc but will confine to Sindh Cultural Heritage (preservation) Act, 1994 being involved in the petitions. The preamble of an enactment is always important for understanding the object, thereof hence let's have a direct reference to preamble of the Act which reads as:-

"Preamble. Whereas it is expedient to preserve and protect ancient places and objects of architectural, historical, archaeological, artistic, ethonological, anthropological and national interest in the Province of Sindh."

From above, it is quite obvious that it is aimed to preserve and protect ancient places as well objects of architectural, historical, archaeological, artistic, ethonological, anthropological and national interest. Here, we would insist that the 'Sindh' has got its own old history (Indus civilization) hence the historical importance of this land (Sindh) cannot be denied. It is known of its own culture which is not limited to religion alone but more than that. It is known of typical way of living, ancient places, including Mohin-jo-Daro, artistic works in shape of writing, Shrines describing typical features of architectural touch and history; typically built buildings with classic touch of fine-arts as well architectural which are witnesses of richness of our ancestors in all fields of life. The soil of Sindh is rich in having objects of archaeology, architecture, historic etc, but as already said that when it comes to a collective thing, it is pertinent to mention that this is responsibility of the State to determine and declare, notify the status of a particular thing as protected property or otherwise within the criterion. It may also be added that cultural heritage being a matter of collective-nature hence despite the wishes of individuals to have every single loved thing to be notified would not matter unless it is so declared notified by the quarter concerned as per Commandment of law. At this point, it would be relevant to refer the term "protected heritage", which per Section 2(vi) of the Act is:

"vi. protected heritage" means any premises or objects of archaeological, architectural, historical, cultural or national value declared as such by Government by notification that would include the land externally appurtenant such thereto and the outer walls thereof;

From above, it is quite obvious that it is the Government which has the competence and jurisdiction to notify and premises or objects as 'protected heritage' however, since

such premises or objects may be owned by an individual therefore, the Act itself provides mechanism to file objection within one month from date of publication thereof (notification). However, as per section 6(4) of the Act, a notification under this section, unless and until is withdrawn, shall be conclusive evidence of the fact that premises or objects is a protected heritage. The section, for ease, is referred directly as:

"(4) A notification under this section shall, unless and until it is withdrawn, be conclusive evidence of the fact that premises or objects to which it relates is a protected heritage within the meaning of this Act."

22. In view of above discussion and directions, instant petition stands disposed of. We, however, for easy compliance of all directives, reiterate the same in brief, as under:-

(i) Director General, Mines and Minerals shall ensure that no permit/license for crushing plant is issued unless fulfilling the criterion of amended rules coupled with international standards (SOP) prescribed by international organization i.e UN, UNESCO, etc;

(ii) Director General, Mines & Minerals shall send all the licenses/permits for their examination by the committee formed in view of Mines Act, 2021, who shall examine all the aspects including SEPA and if any license is not fulfilling the criterion; the same shall be considered as cancelled;

(iii) Chief Secretary shall ensure compliance of paragraphs-6 & 11 of order dated 02.02.2023 without fail;

(iv) Deputy Commissioners Sukkur, Khairpur & Ghotki shall ensure that historical sites are not destroyed further, in any manner; besides in view of paragraph-8 of order dated 02.02.2023 to the extent, that all crushing plants in view of new prescribed rules shall be deemed to be sealed until demarcation is completed;

(v) Also Deputy Commissioners ensure that crushing site would be at the distance of at least one kilometer radius from the historical site(s) and

(vi) Owners of crushing plants shall ensure adoption of wet crushing technology and dust collectors; besides ensure registration of their workers with SESSI & EOBI respectively. Deputy Commissioners in this regard shall ensure compliance;

(vii) Secretary Labour shall ensure verification of permits granted in view of criterion and shall take an action in case of any violation; shall not be carried out without calculating and restricting to the optimum quantity of blasting material Mining activities in the area vis-a-vis seismic response in the historical site(s)

(viii) Deputy Commissioners along with Survey Department shall ensure demarcation of declared sites and submit their reports within one month without fail;

(ix) Secretary (Culture) & concern SSP shall ensure safety of declared sites as they are protected under relevant laws besides ensure that no rushing plant is working to devastate the declared sites;

(x) Secretary Culture shall conduct seminars not only physically but electronically, social media, with participation of experts in the field, on the historical sites of Lakhani-jo-Daro within three months by ensuring that all stakeholders are invited and shall draw road map to maintain this historical site, which is contemporary of Moen-jo-Daro;

(xi) Director General, Antiquities shall visit all antiquities and heritage sites personally on quarterly basis and yearly progress report shall be published available to the common citizen.

(xii) Secretary Health shall ensure that Pulmonologist will visit the sites near to crushing plants on quarterly basis along- with SEPA officials; besides they will provide other treatment to the villages adjacent to the crushing plants,

(xiii) Secretary Law shall ensure that new rules of the Mines Act will be examined and vetted in accordance with law without fail within one month;

(xiv) Chief Secretary, Government of Sindh shall constitute a committee comprising of Secretary Culture, Secretary Revenue, Secretary Labour, Mr. Shahab Usto, advocate Intellectual Mr. Inamullah Shaikh to ensure compliance of this judgment as well as judgments passed in CP.No D-2973 of 2016 and CP.No.D-133 of 2015 and other connected petitions and terms of references. reference shall be outlined by the committee in view of these three judgments as well as according to available laws, such notification shall be issued within one month.

23. Taking stock of the above discussion and directions, let copy of this order be communicated to all concerned authorities including, Chief Secretary Sindh; accordingly learned MIT-II of this Court shall ensure strict compliance.

5. That, in a similar manner this Honourable Court at Sukkur Bench, while hearing the C.P No.D-1447 of 2020 and C.P No.D-228 of 2021 has also passed a judgement dated 25-5-2023, both the petitions related to conservation, preservation, protection, rehabilitation & maintenance of historical/ancient sites which were already declared and enlisted under Sindh Cultural Heritage (Preservation) Act, 1994 & Sindh Antiquities Act, 1975. The following relevant paragraphs are reproduced for the purpose of understanding;

3. In C.P. No.D-1447 of 2020, learned Counsel representing the Petitioner, at the very outset, contended that Lansdowne Bridge, being ingeniously designed Railway Bridge, was completed and opened to traffic on 27th March, 1889; besides it became one of the longest rigid girder bridge in the world; however the said bridge

is nowadays in worst condition as its road, iron grills, footpaths and entrance have significantly are wholly damaged and neither none the Railway Department nor Provincial Government departments took efforts to maintain, preserve or uphold such imaginatively bridge, being appurtenance component, which is already declared as antiquity under sub- Section (1) of Section 10 of the Antiquities Act, 1975; besides it having historical value, listed as Protected Sites/ Monuments under Antiquities Act, 1975. He further contended that some permanent employees may be hired, fully equipped with tools to keep the bridge clean; besides leakage from pipes installed at the wall of the Lansdowne bridge be blocked so that its " beautification may be maintained.

4. Compatibly, in connected petition, being C.P No.D-228 of 2021, filed by the Petitioner in person, who is an advocate by profession, in his arguments, asserted that in fact the Province of Sindh with a number of historical sites and the concerned Departments established in this regard to preserve, maintain and uphold however, due to their dearth of interest, same are at the verge of getting destroyed. He next contended that there is a historical place "Satiyan Jo Astan", which has an intrinsic value and provide a sneak peek into our ancient heritage and it speaks about the place, tradition and historical significance; besides endows with the details about the variety and quality of the material used in its establishment. He further contended that though a massive annual budget has been retained by the Government to preserve, uphold and maintain such historical cenotaphs, but of no avail as such the same are at their lowliest condition and are losing their prominent status.

5. It shall not be excessive to mention here a little brief regarding importance of historical monuments and cultural heritage existing in any country as the same are unique, irreplaceable and matchless construction and reflects architectural astuteness of people in the past that compiled huge structures in the period, when there was no technology; besides such monuments take us to the path of knowing our past and connecting it with the future and makes it easy to analyze the history of the a place; that such monuments helping in educating and imparting every bit and piece of information of the past and make things more interesting. Additionally, it provides the details about the past language and their mode of communication. Needless to proper maintenance are also essential to enhance their life as it will assist future generations to get the know-how of their ancestors and enlighten with an abundance of knowledge. Moreover, maintaining existing structures is often better than building new facilities and same will be blessing if the remaining ancient places will remain intact

11. Additionally, Deputy Commissioner, Sukkur, has also filed compliance report, wherein he has submitted that all kind of religious political, commercial banners, boards and posters from the walls of the bridge have been removed including encroachment from the entrance and exit points of the bridge including fish and fruit vendors. He further submitted that the endowment fund society has been established for securing/renovation of heritage of historical sites existing in District Sukkur.

12. It is pertinent to mention here brief history of "Lansdowne Bridge" and "Satiyun Jo Astan" as inscribed is as follows -

"Lansdowne Bridge"

An ingeniously designed Lansdowne railway bridge on the River Indus, was completed and opened to traffic on March 27, 1889 and hence it became one of the longest rigid girder bridges in the world. The bridge hugs together twin cities of Rohri and Sukkur and hence reducing the time and space. It is regarded as a great feat of engineering of 19th century. It is a suspension bridge (pillar less weighing 30,300 tons). The bridge spans 200 feet in the center and extends 310 feet on each bank, a total length of 820 feet and its width is 15 feet. Moreover, it has the longest cantilever span in the world and thus it is accredited as a monument of engineering feat.

The proposal to construct the bridge was floated between 1872 and 1874. The material was imported from abroad and it began reaching the site in 1879. Expenditure on the bridge was estimated at about Rs.3,375,000. The contract of the bridge was awarded to the Westwood and Bailey Company of England and Mr. F A Robertson was the Chief Engineer. It was inaugurated by Lord Reay, then Government of Bombay, which was largely attended by dignitaries from all over Sindh. The bridge was named after Lord Lansdowne, then Governor General.

Satiyan Jo Astan

Satian jo Aastan site is known as the resting place of seven pious & prestigious ladies. According to the folks these women resided here in a hill cave & veiled them secure from all males. One day they heard of a tyrant Raja who desired to see them in front of him. Feeling very sacred & feared they started praying for protection of their piouness. Suddenly the earth turned downwards & they were draped in the cave. This place gave them eternal shelter when their honour was in danger. Knowing about the folk tale the than Governor of Bakhar Mir Abul Qasim Namkeen (1553-83) ordered to protect the cave and decorate the adjacent area. The hillock was levelled in rectangular shape. The ground floor was distributed in seven rooms or Hujras for visitors' stay & one of them was dedicated to seven sisters & kept closed. From within a 25 step stair led to the upper platform. Tradition states that on this beautiful location and peaceful surrounding when construction of a fine complex was completed Mir Abul Qasim Namkeen used to retire here in full moon nights with friends and courtiers. All those were entertained with music, mangoes & water melons. As per his desire he was buried here after death . Hence forth it was turned into the family grave yard of Sabzwari syeds. Except others here are 17 graves of Mir Abil Qasim family constructed from Ochre stone. Inscriptions & Quranic verses in finest Naskh script adorned these structures. The famous colourful glazed tiles were also used to enhance the aesthetic impact . Though the place was as " khani Qabrustan " however- it is more popularly known as " Satian jo Aastan

13. At this juncture, the learned Counsel representing the petitioner in C.P. No.D-1447 of 2020, as well as the petitioner in person in C.P. No.D-228 of 2021 argued that these petitions may be disposed of with directions to the concerned departments to preserve, upkeep and maintain the historical sites on permanent basis, because it not only protects cultural heritage, but fulfills need to connect to the past while providing a framework of ideals for future though maintaining a sense of permanency and heritage of the city; besides make it more valuable for the country to attract

visitors including foreigners, promote tourism and boost the economy of the country.

14. In view of above, captioned petitions are disposed of accordingly by issuing following directions to the Secretary Culture Archeology Departments and Secretary Schools Education department to ensure:-

- To declare lands down bridge and Sukkur Barrage as heritage properties and notify the same within one month;
- Permanent preservation and proper maintenance of historical sites
- Establishment of information desks at historical sites;
- Establishment of labs for Scientific research and archaeological discoveries coupled with arranging seminars;
- Promote cultural, national and local identity;
- Inspiration for artistic and creative endeavors;
- Tourist guide shall be appointed to assist the tourists, besides provide them information regarding such historical sites.
- Tours may be arranged for schools and colleges students for inculcating them knowledge about such a historical site especially the bridge unique in the world.
- Public at large may be sensitized through print, electronic and social media for ownership and protection of the site instead of depending on the state authorities.
- Secretary Schools & Education Department shall ensure introduction of lands down Bridge and Sukkur Barrage in the syllabus upto elementary school with regard to history, architectural and scientific value of lands down and Sukkur Barrage from upcoming academic year 2023-2024.
- Secretary Education shall notify a committee including competent engineers, archeologists and educationalists, who shall prepare a comprehensive story/introduction to be added in the syllabus as above.

Office. Learned MIT-II shall ensure compliance and translation of the judgment in Sindhi in Urdu.

5. That while in the province of Punjab, archeology department Directorate General of Archaeology was established in 1987. Initially an attached department of Information, Culture, and Youth Affairs Department and since October 2011, attached with the newly created Youth Affairs, Sports, Archaeology & Tourism Department. Prior to Devolution in April 2011 the Directorate General of Archaeology, Punjab was responsible for the 261 protected monuments under the "Punjab Special Premises (Preservation) Ordinance 1985". After 18th Amendment, 149 monument sites were transferred from Federal Government to the Government of the Punjab. HQ in Lahore, Sub Regional offices in Taxila, Jhelum, Multan, and Bahawalpur. The name of the department has been changed recently i.e. Tourism, Archaeology and Museums Department.

Objectives

Enlisted below are the prime objectives of the department:

- Conservation / Preservation of Protected Archaeological Sites & Monuments owned and maintained by Archaeology and other Departments
- Preservation of antiquities and establishment of site museums
- Training of staff and artisans in archaeology and conservation
- Archaeological Surveys & Excavations

6. That it is also important to apprise this honourable court that, in the province of Punjab, in particular University of Punjab, this very subject has been dealt with immense importance, as in university of Punjab this very department is specially working with certain aims and objectives which are given below:

Vision:

Our vision is to reconstruct the ancient human societies by discovering, studying, analysing and examining their material culture. We aim at rebuild a strong understanding of history of mankind by Archaeological activities, as by nature archaeology deals with human past. Fundamentally, it involves a very laborious field work while conducting explorations, surveys and excavations. We address historical as well as cultural problems of remote people who did not particularly leave any written record of their activities. Thus, we reconstruct the hidden chapters of human past by reconstructing the social, cultural, political and economic growth of ancient settlements.

Mission:

Keeping in view the vision of Department of Archaeology our aspiration is to produce quality education and research. In order to achieve our vision we have following missions:

- To provide an exceptionally conducive learning environment that will prepare students for brilliant academics and professional achievement
- To create an arena of knowledge, skills, resources and learning opportunities for the faculty and students that will equip them to polish their potential and abilities.
- To enhance and cultivate scholarly research related to the Archaeology of the Punjab.
- To document the monumental archaeology of Punjab by engaging the faculty members and students in different projects.
- To generate different sources to enhance the scope and significance of Archaeology and to promote the importance of our cultural heritage.
- To collaborate with many national and international archaeological organizations. So that we may build excellent working relationship and systematic way of multidisciplinary research.

Goals:

We have set several goals regarding the development of our department. These goal clearly reflect our vision and mission. We aim to publish HEC recognized research journal entitled as "Punjab Archaeology" to promote quality research. Moreover, we are strongly determined to organize international conferences primarily focusing on the Archaeology of Punjab. This initiative will rightly highlight the archaeological features of Punjab such as art, architecture, culture and history. We intend to take several research project as well. We will engage our faculty and students in field activities like survey, exploration and excavation. So that they may get training and play an essential role in

IN THE HIGH COURT OF SINDH, KARACHI

Suit No:1968 of 2023

M/S. SAIF ENTERPRISES

THE PROVINCE OF SINDH
& OTHERS

VERSUS

Plaintiff

Defendant

AFFIDAVIT IN SUPPORT OF . APPLICATION UNDER ORDER I RULE 10 CPC

Suhail Latif Memon Son of Abdul Latif Memon, resident of House No. B-1698 Memon Mohalla Rohri Distt Sukkur., affirmed on oath before me at Karachi on this 23-Dec-2023 in the 'Identity Section' of this court.



(Signature)
(Atique Ahmed Shah) A.S.
High Court of Sindh
Karachi

COMMISSIONER FOR TAKING AFFIDAVIT

Receipt
Tag
ID:809111
No. of
Affidavit:1/1
Cost
received:
Rs.50
Entry Date:
23 Dec-2023
Printed on:
23-Dec-2023 10:30 AM

Nadra Data
Name: سہیل لطیف ميمڻ
Son Of: عبداللطيف ميمڻ
Address: الله رڪيو ميمڻ منزل B-169877 مڪان نمبر
سجاء ميمڻ ڀر وڃي؟ صلح سڪر
Remarks:Matched
DOB: 07/05/1969 Expire
Date:08/08/2029



Deponent



Signature

Personal Info.

CNIC
45502-0854521-9
Cell No
0333-7124301
Email

Verification Info.

Photo Taken at I.S
 Biometric / Verisys
 Nadra Verified (FP)

e-Finger Print(at I.S)



DAWN

Details of buildings removed from heritage list sought

Ishaq Tanoli Published September 29, 2023

KARACHI: The Sindh High Court has directed the provincial culture and heritage authorities to file details of properties which have been removed from the list of heritage buildings since 1996.

The court was hearing a lawsuit filed against the demolition permission order and no-objection certificate (NOC) issued by the then Karachi Building Control Authority in 2004 and culture department in 2021, respectively, for demolition of a building in Civil Lines.

The plaintiffs submitted that the property in question was declared a protected heritage site due to its exceptional artistic and architectural value.

They also submitted that in 2003, an NOC from culture department was obtained about renovation and replacement of doors windows/columns and in 2004 the then KBCA had also illegally issued the permission to raze the property with special conditions.

They stated that TPL Properties Private Limited had purchased the property in 2005 despite knowing its heritage status and thereafter asked the culture department for permission to clean up the exterior and replacement of broken windowpanes.

However, the plaintiffs maintained that in 2008, the culture authorities decided that the existing building structure will not be demolished and the technical committee would supervise the preservation/conservation work of the adoptive re-use process.

They argued that in April 2021, the culture department and the Sindh Building Control Authority had illegally granted a NOC for the demolition the building.

They pleaded to set aside the demolition permission as well as the NOC and sought a restraining order from continuing with any demolition and construction upon the property in question.

Earlier, the SHC had put the culture department, SBCA and others defendants on notice with direction to file comments about the status of the property in question.

At the outset, secretary of the advisory committee of cultural heritage Aleem Lashari turned up and submitted that he needed time to produce a list of all the buildings which have been delisted since 1996 when the first listing of heritage buildings was carried out under the Sindh Cultural Heritage (Preservation) Act, 1994 along with the orders passed about such delisting.

Adjourning the matter till Oct 9, the bench directed the secretary to file such details within a week.

Published in Dawn, September 29th, 2023

SHC orders panel to restore, promote heritage sites

Suggests formation of dedicated force to protect tourists

Our Correspondent December 29, 202

KARACHI:

The Sindh High Court has ordered to form a committee for the restoration and promotion of heritage sites and to restore the colonial era clock towers of Sukkur, Hyderabad and Shikarpur.

A single bench consisting of Justice Salahuddin Panhwar issued important orders to the Culture, Tourism, Antiquities and Archives Department on a petition related to the protection of Sindh's historical places and increase in tourism activities.

Justice Salahuddin Panhwar remarked that the preservation of cultural heritage will have educational, environmental and financial benefits. Better maintenance and protection of tourist and cultural sites will increase tourism. The court ordered the formation of a committee for the restoration and promotion of historical places. The court remarked that the committee should frame its suggestions on how to facilitate foreign tourists.

Read 'Expedite renovation of Mai Qamro Mosque'

The committee should also determine the criteria for the recruitment of Grade 17 officers in the Culture Department to run the tourism force, on the pattern of K-P, to provide a safe environment to the tourists.

Personnel having information of historical places should be recruited as tour guides and training should be provided to them in three months.

The bench also ordered the establishment of information desks at 10 historical places including Bhanbhore. Culture department should introduce modern methods of providing information about Mohenjo Darro, Kot Dijji, Banbhore and Rohri Hills, SHC said.

The court ordered removal of encroachment around the Sukkur, Hyderabad and Shikarpur clock towers within two months. The court demanded a list of heritage buildings.

Published in The Express Tribune, December 29th, 2023.