

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

C.P No.D-3672 of 2025

[Mst. Sahira Begum & others v. Province of Sindh & others]

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
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Before;
Mr. Justice Yousuf Ali Sayeed;
Mr. Justice Abdul Hamid Bhurgri.

- 1. For orders on office objections No.1 to 2.
- 2. For orders on Misc. No.15227/2025.
- 3. For orders on Misc. No.15228/2025.
- 4. For orders on Misc. No.15229/2025.
- 5. For hearing of main case.

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Date of hearing:- 08.09.2025

Mr. Abdul Jabbar Korai, Advocate for Petitioner.

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Abdul Hamid Bhurgri, J.- The petitioner through this Constitution Petition, seeks following reliefs:

- a) To direct the officials Respondent No. 1 & 6 to discharge their legal and lawful obligations as provided under stature (statute) by demolish and / removing and stop the illegal, unlawful and unauthorized encroachment and running of such Iron Plant at Zahid Cutter, Faqeer Muhammad Dura Khan road, Lyari, near Dhobi Ghat, Usmanabad, Karachi, South Zone, Karachi.
- b) Further Direct/Restrain the Respondents No: 10 and 11 from Resident for Commercial activity, and RESTRAIN Respondent No: 10 & 11 from Parking at LTV/HTV at Zahid Cutter, Faqeer Muhammad Dura Khan road, Lyari, near Dhobi Ghat, Usmanabad, Karachi, South Zone, Karachi, till Disposal of Petition.
- c) Any other relief(s), which this Hon'ble Court may deem fit and proper under the circumstances of the case.
- d) Cost of the petition may be awarded to the petitioner.

2. The brief facts, as pleaded by the petitioners, are that they are residents of Flat No.30, Kala Karam Compound, Usmanabad, Lyari, Karachi. Respondents No.1 to 5 are statutory authorities under the Sindh Local Government Ordinance, 2001, charged with the duty to remove unlawful encroachments in the interest of citizens and for the beautification of the city. It is alleged that respondents No.10 and 11 have unlawfully encroached upon a residential locality by raising unauthorized construction of an iron plant, carrying out copper and iron works, and parking heavy

vehicles (HTVs/LTVs) within the neighbourhood. Despite repeated complaints and a legal notice served by the petitioners, the official respondents have failed to take action. According to the petitioners, the said encroachments endanger public safety, cause environmental pollution, damage adjoining residential buildings, create mental distress for local residents, and amount to violations of the Easement Act as well as the fundamental rights of citizens. Being aggrieved, the petitioners have invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution, seeking protection of their rights and removal of the encroachments in the wider public interest.

3. We have heard the counsel for the petitioner and perused the material available on record.

4. At the very outset, it is to be observed that the grievance raised by the petitioners relates to alleged encroachments and unauthorized commercial use of residential premises. Such matters fall squarely within the domain of the statutory authorities established under the Sindh Public Property (Removal of Encroachment) Act, 2010, which provides a complete mechanism, including adjudication before the Anti-Encroachment Tribunal. Where the legislature has created a specific forum and remedy, the extraordinary jurisdiction of this Court under Article 199 of the Constitution is not to be invoked as a substitute.

5. It is well settled that the constitutional jurisdiction of this Court is discretionary in nature and is to be exercised sparingly, only in cases of manifest illegality, jurisdictional defect, or infringement of fundamental rights of public importance. The controversy in the present case is essentially a localized dispute concerning alleged encroachments and unauthorized commercial activity in a residential area. These questions involve factual inquiry and assessment of evidence, which cannot conveniently be undertaken in writ proceedings.

6. Although the petitioners have couched their grievance in terms of public interest, in substance the matter concerns the enforcement of municipal regulations within a particular neighbourhood. This does not, in itself, qualify as an issue of public importance so as to warrant direct interference by this Court in its constitutional jurisdiction. The appropriate course for the petitioner is to approach the competent authorities or, if aggrieved, to seek adjudication before the Anti-Encroachment Tribunal, in accordance

with law. As there is no specific bar under the Sindh Public Property (Removal of Encroachment Act, 2010, a private person, upon failure of the competent authority to act, may lawfully invoke the jurisdiction of the Tribunal. Reliance is placed on the case of Mst. Shahnaz v. Iqbal Hussain & 10 others (2022 CLC 556).

7. Nevertheless, it is clarified that the official respondents, being statutory functionaries, remain under a continuing duty to safeguard public property, to ensure compliance with planning laws, and to prevent the unauthorized conversion of residential areas for commercial purposes. It is therefore expected that, should the petitioners approach the competent authority in accordance with law, their grievance shall be considered and decided expeditiously, strictly on its own merits and in accordance with the statutory provisions, failing which they may approach the Tribunal.

8. For the foregoing reasons, this petition is disposed of in the above terms, leaving the petitioners at liberty to avail their remedy before the competent forum as provided under law.

JUDGE

JUDGE

Ayaz Gul