

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

C.P No.D-866 of 2025

*[Accountant General Sindh Employees Co-Operative Housing Society
v. Farman Raza and 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.
- 2. For hearing of CMA No.4630/25.
- 3. For hearing of CMA No.4631/25.
- 4. For hearing of main case.

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Date of hearing:- 22.09.2025

Mr. Rana Muhammad Arshad, Advocate for the Petitioner.

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Abdul Hamid Bhurgri, J.- The Petitioner is a duly registered Cooperative Housing Society, having obtained its registration in the year 1971. Following completion of all codal formalities, the Respondent No.5, namely the Government of Sindh, allotted to the Petitioner a parcel of land measuring 20 acres, via Allotment Order dated 5th June 1973, for the purpose of establishing the said society. Physical possession of the land was formally handed over to the Petitioner on 2nd June 1980.

2. The subject matter of this petition relates to Amenity Plot No. AM-2, measuring 9239.32 square yards, located within Sindh Employees Cooperative Housing Society, Sector 27-A, KDA Scheme No. 33, Malir, Karachi. The Petitioner contends that this amenity plot has been illegally and unlawfully occupied by Respondents No.1 to 4, in collusion with unknown individuals.

3. It is submitted that, as per the Approved Master Plan dated 27th July 2006, issued by the City District Government Karachi, the aforementioned plot was specifically earmarked for public and community use, namely a Hospital, Imam Bargah, Masjid, and a Park, to benefit the residents of the society. On or about 23rd October 2023, the Respondents No.1 to 4, along with alleged land grabbers, forcibly and without lawful authority, encroached upon a portion of the said amenity plot. Despite verbal requests and formal communication from the Society's Secretary, the said Respondents refused to vacate the land and, further, issued threats of violence and

intimidation to the Society's officials, warning them of "dire consequences" should they attempt to reclaim the occupied area.

4. In light of these developments, the Petitioner, through its Secretary/Supervisor, approached Police Station Sachal, Karachi (Respondent No.7) to report the illegal encroachment. Further complaints were lodged with the SSP Anti-Encroachment (Respondent No.6) and SHO Sachal (Respondent No.7). However, despite these efforts, no action was taken by the concerned authorities, and the encroachment continues unabated.

5. The Petitioner submits that the illegal occupation of the amenity plot has caused considerable hardship to the residents, including the inability to perform religious functions due to the lack of access to the designated spaces, and deprivation of green public areas, particularly for children. This has led to mental anguish, public inconvenience, and community distress.

6. In view of the inaction of the official Respondents and the absence of any other adequate or efficacious remedy, the Petitioner has invoked the extraordinary constitutional jurisdiction of this Court by filing the present petition, seeking the following reliefs:

(a). To Declare that the plot of land bearing Plot No.AM-2, measuring 9239.32 Sq.yds Situated in A.G Sindh Employees Cooperative Housing Society, Sector 27-A, KDA Scheme No.33, Malir, Karachi is legal and lawful amenity plot as per the Approved Master Plan.

(b). To direct the respondents No. 1 to 4 to immediately vacate the illegally occupied portions of an open amenity Plot No.AM-2, and to hand over its physical vacant possession to the Petitioner, as the same has been unequivocally earmarked for Hospital, Imam Bargah, Masjid, Park & Hospital supposed to be used by the inhabitants of the society for respective purposes in the light of Approved Master Plan.

(c). To direct the official respondents No.5 to 7 to take prompt and necessary action against the illegal and unlawful occupier / encroachers, Respondent No.1 to 4 by ousting them from illegally occupied portions of subject amenity plot.

(d). To direct the official Respondents to get the illegal construction work stopped carried out at the portions of amenity plot by the respondents No.1 to 4 forthwith and prosecutes the illegal occupants pursuant to laws of land.

(e). To restrain the respondents No.1 to 4 from extending threats, harassment, using of any illegal force against the Secretary of society, the residents security guards and or any other person of society.

(f). Any other relief(s), which this Hon'ble Court may deem fit and proper under the circumstances of the case.

(g). Cost of the petition.

7. We have learned counsel for the Petitioner and perused the record with due care and consideration. The Petitioner, a registered Cooperative Housing Society, seeks relief against alleged illegal encroachment upon an amenity plot earmarked for public and religious purposes within its approved layout plan.

8. At the outset, it merits consideration that the Petitioner has an adequate and alternative remedy available under the applicable legal framework. Specifically, matters concerning encroachment on public or amenity land fall squarely within the jurisdiction of the relevant district administration and, where appropriate, the Anti-Encroachment Tribunal, constituted under statute for such disputes.

9. It is a well-settled principle that the High Court will refrain from interfering in matters involving disputed facts or where a specialized statutory forum exists. Entertaining such petitions in constitutional jurisdiction would bypass the legislative scheme and reduce the Tribunal to redundancy, which the law does not permit. Reliance is placed on the case of **Jameel Qadir and another v. Government of Balochistan, Local Government Rural Development and Agroviles Department, Quetta through Secretary and others (2023 SCMR 1919)**, wherein the Honourable Supreme Court has held as under:-

“13. The writ jurisdiction of the High Court cannot be worn out as a solitary way out or remedy for aerating all sufferings and deprivations. The doctrine of exhaustion of remedies stops a litigant from pursuing a remedy in a new court or jurisdiction until the remedy already provided under the law is exhausted. The underlying principle accentuated in this doctrine is that the litigant should not be encouraged to circumvent or bypass the provisions assimilated in the relevant statute. The extraordinary jurisdiction of the High Court under Article 199 of the Constitution cannot be reduced to an ordinary jurisdiction of the High Court. It is a well settled exposition of law that disputed questions of facts cannot be entertained and adjudicated in the writ jurisdiction. The expression "adequate remedy" signifies an effectual, accessible, advantageous and expeditious remedy.”

10. Although framed in the language of public interest, the dispute is in essence a localized encroachment issue requiring factual inquiry, which cannot be undertaken in writ proceedings. The proper course for the petitioner is to pursue his remedy before the competent authority and, if necessary, before the Tribunal as

provided under the Sindh Public Properties (Removal of Encroachment) Act, 2010. As the Act does not contain any express bar, a private person may, upon failure of the competent authority to act, competently invoke the jurisdiction of the Tribunal. Reliance is placed on ***Mst. Shahnaz v. Iqbal Hussain and others (2022 CLC 556)***.

11. In the light of the available alternate remedy, the petition is held to be not maintainable and is accordingly dismissed along with listed applications, if any, however, the petitioner may approach the competent authority for redressal of its grievance concerning alleged encroachment. Should the authority fail to take appropriate action within a reasonable time, the Petitioner shall be at liberty to file proceedings before the Anti-Encroachment Tribunal, constituted under the Sindh Public Property (Removal of Encroachment) Act, 2010.

JUDGE

JUDGE

Ayaz Gul