

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**

**C.P. No. D-5040 of 2024**

*[Hari Das v Province of Sindh and Others]*

Date	Order with signature of Judge(s)
------	----------------------------------

Before:

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Muhammad Hasan Akbar

**Date of hearing and Order: 20.05.2026**

Mr. Darvaish K. Mandan, advocate holding brief  
for Mr. Mukesh Kumar Karara, advocate for the Petitioner, along with  
Hari Das, Petitioner  
Mr. Muhammad Umar Lakhani, advocate for the respondent  
Mr. Abdul Jalil Zubedi, Addl. A.G

\*\*\*\*\*

**ORDER**

**Adnan-ul-Karim Memon, J.** – Petitioner Hari Das has filed this Constitution Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan 1973, seeking the following relief:-

- i) *Direct the Respondent to immediately stop the demolition process being carried out at Pot No. 26 and 27 at ‘Alavi Building’ (Tayyai Center), Serai Quarters, Karachi, and maintain the building as a protected heritage with all inclusive privileges;*
- ii) *To restrain the respondents No. 2 to 6 from demolition, destruction, and damaging the Alavi Building (Tayyabi Center) constructed on our Plot Nos. 26 and 27 at Serai Quarters, Karachi, forthwith and without any further delay;*
- iii) *To appoint Nazir of this Court for conducting the physical inspection/verification of the Alavi Building (Tayyabi Center) constructed on our Plot Nos. 26 and 27 at Serai Quarters, Karachi, and submit the report before this Hon’ble Court for further and appropriate orders;*
- iv) *Restore/rebuild the structure destroyed to date from all ends of the building, and also restore the parking, amenities of the Alavi Building (Tayyabi Center) constructed on our Plot Nos. 26 and 27 at Serai Quarters, Karachi,*
- v) *To immediately seal the Alavi Building (Tayyabi Center) so that further demolition of the building may stop immediately.*
- vi) *Grant cost of petition;*
- vii) *Grant any other relief which is deemed fit and proper in the circumstances of the case.*

2. The case of the petitioner is that he is a long-standing occupant of Office No. 46 in *Alavi Building (Tayyabi Center)* situated at Serai Quarters, Karachi, and has invoked the constitutional jurisdiction of this Court against the illegal demolition of a protected heritage structure. The building, constructed with solid stone and forming part of the historic cluster of pre-partition architecture in the old city area, is duly listed as a heritage property and holds significant cultural, social, and architectural value. The petitioner asserts lawful and continuous possession of the premises for over four decades, having acquired occupancy

rights through the previous lessee upon payment of pagri and ground rent. Despite such settled possession, the private respondents, claiming rights through a subsequent sublease, have allegedly resorted to unlawful tactics to dispossess occupants and demolish the structure, including blocking access, dismantling essential facilities, and carrying out demolition activities without lawful authority. It is submitted that such demolition is being undertaken without notice, due process, or requisite approvals, in clear violation of heritage protection laws and principles of natural justice. Although the concerned authorities initially issued notices to halt the demolition and even attempted sealing of the premises, the petitioner alleges that the same were rendered ineffective due to inaction and alleged collusion, allowing demolition to continue unabated. The petitioner maintains that the impugned actions not only threaten his proprietary and possessory rights but also endanger the existence of a notified heritage building. Repeated representations to the authorities have failed to yield any effective remedy, leaving the petitioner with no alternative recourse except to seek the intervention of this Court. Accordingly, the petitioner seeks immediate restraint against further demolition, preservation of the heritage structure, restoration of the demolished portions, and appointment of a Nazir for inspection, to safeguard both his legal rights and the cultural heritage of the city.

3. Petitioner Hari Das is present in court, briefed this court, and submitted that the petition concerns the illegal demolition of the historic “Alavi Building (Tayyabi Center)” situated at Plot Nos. SR-7/26 and SR-7/27, Serai Quarters, Karachi, allegedly forming part of the old heritage cluster of the city. It was submitted that he has remained in lawful possession of Office No.46 for over 45 years through pagri/tenancy rights and that the respondents have unlawfully demolished portions of the premises, including common amenities, parking space, and washrooms, without lawful authority or due process. Counsel further submitted that despite repeated notices issued by the petitioner and even stop-work/sealing notices issued by SBCA, respondent Nos. 5 and 6 continued demolition activities day and night in collusion with official respondents. It was contended that the structure is a protected/recommended heritage building possessing historical and architectural significance and that the inaction of the authorities amounts to a violation of the petitioner’s constitutional and proprietary rights.

4. Learned counsel for respondent No.2/SBCA submitted that demolition permission was lawfully granted on 31.05.2019 after completion of all legal and technical formalities and upon verification from the Culture, Tourism & Antiquities Department that the subject plots were “not included” in the list of protected heritage properties under the Sindh Cultural Heritage (Preservation) Act, 1994. It was further submitted that although the premises were temporarily

sealed in September 2024, the same were subsequently de-sealed after the owners produced valid demolition permission and official verification letters. SBCA maintained that Plot No. SR-7/27 has already been demolished lawfully, whereas Plot No. SR-7/26, where the petitioner is situated, remains intact. It was argued that the controversy essentially involves disputed questions of fact and private rights between the parties, which cannot appropriately be adjudicated in constitutional jurisdiction.

5. Learned counsel for respondent No.6 opposed the petition and submitted that the petitioner is merely an occupant/tenant having no proprietary interest in the property and therefore lacks locus standi under Article 199 of the Constitution. It was argued that Plot Nos. SR-7/26 and SR-7/27 are separate properties, and demolition activity has only been carried out on Plot No. SR-7/27, while Plot No. SR-7/26 has neither been demolished nor interfered with. Counsel further submitted that the petitioner has filed the instant petition only to pressure and blackmail the owners after refusing to vacate the premises unless paid monetary compensation. It was also denied that the properties are protected heritage structures, and it was contended that the petitioner's assertions are based merely on assumptions due to the age and location of the building.

6. Counsel for respondent No.3, Directorate General (Antiquities & Archaeology), submitted that upon physical inspection, it was observed that the actual "Alavi Building" structure exists on Plot No. SR-7/26 and appears to qualify for declaration as protected heritage under the Sindh Cultural Heritage (Preservation) Act, 1994, whereas Plot No. SR-7/27 has already been demolished and was neither notified nor recommended as heritage property. It was further submitted that the original heritage notification issued in 1995 did not specify plot numbers, and subsequent re-survey notifications issued in 2011 were set aside by this Court in earlier proceedings, whereafter fresh surveys were directed. The department stated that the matter regarding the declaration of Plot No. SR-7/26 as protected heritage is under process.

7. We have heard the petitioner in person, learned counsel for the respondents, and perused the material available on record.

8. The controversy in the instant petition revolves around two distinct plots bearing Nos. SR-7/26 and SR-7/27, situated at Serai Quarters, Karachi; therefore, the status and legality concerning each plot are required to be examined independently in light of the material placed before this Court.

9. So far as Plot No. SR-7/27 is concerned, the record reflects that demolition permission had been granted by SBCA vide permission dated 31.05.2019 after verification from the competent Heritage Department that the said property was

“not included” in the notified list of protected heritage properties under the Sindh Cultural Heritage (Preservation) Act, 1994. The Directorate General (Antiquities & Archaeology) has also categorically stated in its written statement that Plot No. SR-7/27 neither stood notified nor recommended as protected heritage, and the said plot presently stands demolished. In such circumstances, this Court does not find sufficient material to hold that the demolition carried out upon Plot No. SR-7/27 was ex facie without lawful authority. The question relating to proprietary rights, tenancy claims, easementary rights, pagri arrangements, compensation, or alleged interference with possession involves disputed questions of fact requiring evidence, which cannot appropriately be adjudicated in constitutional jurisdiction under Article 199 of the Constitution. The petitioner, admittedly, is not the owner of Plot No. SR-7/27 and his claim primarily rests upon alleged occupancy and ancillary usage rights. Such disputed civil claims are to be agitated before the competent civil forum in accordance with the law.

10. However, the position about Plot No. SR-7/26 stands on a different footing. The Directorate General (Antiquities & Archaeology), after physical inspection, has specifically reported that the actual “Alavi Building” structure exists upon Plot No. SR-7/26 and qualifies to be declared as protected heritage under the Sindh Cultural Heritage (Preservation) Act, 1994. It has further been stated that the matter for the declaration of the said structure as protected heritage is presently under process before the competent department. Admittedly, the petitioner is in physical occupation of Office No.46 situated on Plot No. SR-7/26 for a considerable length of time, and his possession has not been disputed. Even otherwise, an occupant in settled possession cannot be dispossessed except in accordance with law.

11. At the same time, it cannot be ignored that respondents Nos 5 and 6 claim ownership rights in the subject property through registered title documents/sublease arrangements, and ownership rights recognized under law cannot be curtailed except in accordance with due process. Mere pendency of a proposal or process for declaration of heritage status does not automatically extinguish proprietary rights of the owner. Nevertheless, once the competent Heritage Department itself has reported that Plot No. SR-7/26 qualifies for consideration as a protected heritage structure; the matter assumes public importance touching preservation of cultural and historical assets of the Province. In such circumstances, it becomes the duty of the concerned authorities to ensure that no irreversible prejudice is caused to the structure before a final determination is made by the competent forum under the Sindh Cultural Heritage (Preservation) Act, 1994.

12. In view of the above discussion, this petition is disposed of with the following directions:-

*i. The competent authority of the Directorate General (Antiquities & Archaeology), Government of Sindh, shall examine and finalize, strictly in accordance with law, the status of Plot No. SR-7/26 and the structure known as “Alavi Building” about its proposed/protected heritage status under the Sindh Cultural Heritage (Preservation) Act, 1994, after providing an opportunity of hearing to all concerned parties, preferably within a period of 60 days.*

*ii. Till the final decision by the competent authority regarding Plot No. SR-7/26, respondent Nos. 5 and 6 shall not demolish, alter, or create any third-party interest in the existing structure situated upon Plot No. SR-7/26.*

*iii. Since Plot No. SR-7/27 already stands demolished pursuant to demolition permission granted by SBCA, and the same is not presently declared or recommended as protected heritage; no restraint order is warranted about the said plot. However, this order shall not prejudice the rights of the petitioner or any other aggrieved person to seek appropriate remedy before the competent civil court/forum concerning tenancy, possession, easementary rights, compensation, or any other independent claim permissible under law. However, the possession of the subject property shall remain with the owners forthwith.*

*iv. The parties shall cooperate with the concerned authorities during inspection/survey proceedings, and the competent department shall pass a speaking order independently without being influenced by any observation made herein, which are tentative in nature.*

13. With the above observations and directions, this Constitution Petition stands disposed of along with all pending applications.

JUDGE

JUDGE