

ORDER SHEET
THE HIGH COURT OF SINDH KARACHI
 C.P. No. D – 1144 of 2025
 [Kathiwar Co-operative H. Society v. Province of Sindh & others]

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
	Before:- Mr. Justice Adnan-ul-Karim Memon Mr. Justice Muhammad Hasan (Akber)

Date of hearing and order:- 18-05-2026

M/s. Mian Raza Rabbani and Muhammad Zeeshan Abdullah,
 Advocates for the Petitioner along with
 M/s. Saalim Salam Ansari, Okash Mustafa, Sidra Hussain, and
 Shoaib Khosa, Advocates.
 Mr. Ahmed Ali Ghumro, Advocate for the MDA.
 Mr. Abdul Jalil Zubedi, AAG Sindh along with
 Mrs. Shagufta Shaikh, AC (Revenue), is also present in Court.

ORDER

Adnan-ul-Karim Memon, J The Petitioner has prayed for a declaration that the failure of the Respondents to provide force and machinery for removal of encroachments is illegal and without jurisdiction; a declaration that the Respondents are bound to comply with the directives contained in the letter dated 12.03.2025; and directions for the immediate removal of encroachments from the subject land. It is further prayed that the Respondents be directed to provide necessary law enforcement personnel and machinery for anti-encroachment operations and submit compliance reports before this Court.

2. The case of the Petitioner is that it is a Cooperative Housing Society, lawfully established for the welfare and management of its residents, and is the owner and allottee of land measuring 129.39 acres situated in Sector 43 & 44, Taiser Town, Scheme-45, Karachi. It is contended that the subject land was originally allotted to Karachi Cooperative Housing Societies Union Ltd., which was subsequently transferred to the Petitioner upon fulfillment of all legal requirements and payment of due charges.

3. It is the grievance of the Petitioner that during the year 2024, certain unknown persons unlawfully encroached upon portions of the subject land, allegedly with the connivance of local administration and police officials, thereby obstructing its lawful possession. Despite repeated directions issued by the Malir Development Authority (MDA) through letters and schedules dated 23.12.2024, 30.12.2024, and 12.03.2025 for anti-encroachment operations, no effective action was taken due to alleged lack of police and administrative support, which, according to the Petitioner, amounts to illegality, arbitrariness, and violation of its

constitutional and proprietary rights. The Petitioner has, therefore, sought directions for the removal of encroachments, provision of police assistance and machinery, implementation of MDA's letter dated 12.03.2025, and supervision of the operation by an officer of this Court.

4. Learned counsel for the Petitioner contends that the Respondents have failed to take effective action against illegal encroachments despite clear directives issued for anti-encroachment operations, rendering their inaction illegal, arbitrary, and without lawful authority. It is further submitted that the Respondents are under a legal obligation to provide adequate police assistance and necessary machinery for the removal of encroachments; however, they have negligently and unjustifiably failed to discharge this duty, thereby allowing unlawful occupation of the subject land to continue. It is also argued that the Proforma Respondent, though having issued multiple directives, including the letter dated 12.03.2025, lacks enforcement powers and is dependent upon the concerned Respondents for implementation, which has not been ensured despite repeated instructions. Such failure, according to the Petitioner, has not only frustrated the lawful orders but also encouraged continued illegal occupation of land. Learned counsel further submits that the Respondents' inaction amounts to a violation of the Petitioner's constitutional and proprietary rights, causing irreparable loss not only to the Petitioner but also to the residents of the housing society, who are being deprived of an encroachment-free environment. It is also submitted that permission may be granted to raise additional grounds during arguments, if so required. In these circumstances, the Petitioner has prayed for a declaration that the failure of the Respondents to provide force and machinery for removal of encroachments is illegal and without jurisdiction; a declaration that the Respondents are bound to comply with the directives contained in letter dated 12.03.2025; and directions for immediate removal of encroachments from the subject land. It is further prayed that the Respondents be directed to provide necessary law enforcement personnel and machinery for anti-encroachment operations and submit compliance reports before this Court. Additionally, it is prayed that the Respondents be directed to extend full assistance to the Petitioner and Proforma Respondent in the anti-encroachment drive, and that the Nazir or any officer of this Court be appointed to supervise the operation and submit a report. Any other relief deemed just and proper, including costs of the petition, has also been sought.

5. On the other hand, the Respondent-MDA, in its comments, has acknowledged issuance of multiple anti-encroachment letters and schedules from time to time. It is stated that approximately 54.85 acres of land have already been cleared from encroachment, while 35 to 40 acres have been substantially vacated, and further operations are underway for the remaining land. It is further stated that

permission for the construction of a boundary wall was granted to the Petitioner vide letter dated 14.01.2026, and the demarcation sketch/map was issued on 11.02.2026. The MDA has expressed willingness to extend full lawful assistance and facilitation to the Petitioner.

6. The Deputy Commissioner, in compliance with the order dated 13.05.2026, has submitted a report not objecting to the construction of the boundary wall in Sector 44, Taiser Town, subject to prior clearance from MDA, which has already been granted. Learned counsel for MDA has also stated no objection to the erection of the boundary wall, subject to all just exceptions under law. Learned counsel for the Petitioner submits that the exercise may be carried out under the supervision of the Nazir of this Court, with deployment of guards to be arranged by the Petitioner.

7. In view of the above facts and circumstances, and with the consent of learned counsel for the parties, it appears that substantial relief, to the extent of securing demarcation and enabling construction of the boundary wall on the subject land, has already been facilitated through the administrative authorities, including issuance of requisite permissions and demarcation of the site. The Deputy Commissioner has also raised no objection to the construction of the boundary wall, subject to clearance from the Malir Development Authority, which admittedly stands granted as pointed out by the Counsel for the MDA. Likewise, learned counsel for the Respondent-MDA has expressed no objection to the erection of the boundary wall, subject to all just and legal exceptions. However, the AAG is of the same view.

8. In these circumstances, and to ensure that the process is carried out in an orderly, transparent, and peaceful manner, without any likelihood of breach of law and order, it is appropriate that the Nazir of this Court be deputed to supervise the erection of the boundary wall over the premises, subject to lawful entitlement under the law. His fees to be determined by the Nazir himself, which shall be paid in advance. The Nazir shall ensure that proper notice is issued to all concerned stakeholders, and that adequate police force is made available to maintain law and order and to avoid any untoward incident during the course of execution of the said work, subject to the entitlement of the parties. The exercise shall, however, remain strictly subject to all just exceptions available under the law.

9. As far as the issue of remaining encroachments is concerned, since the matter involves disputed questions of fact and requires continued administrative and possibly enforcement action, the Petitioner is at liberty to approach the competent forum/authority in accordance with law for redressal of any surviving grievance regarding removal of encroachments from the subject land.

10. Accordingly, with the above observations and directions, and since the purpose of filing this petition stands substantially achieved to the extent noted above, the instant petition, without touching the merits of the case, and with the consent of the parties, along with pending application(s), is disposed of in the above terms.

JUDGE

JUDGE

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