

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-6232 of 2025
(Syed M. Hamid Kazim Alvi v Province of Sindh & others)

Date	Order with signature of Judge
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Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Zulfiqar Ali Sanghi

Date of hearing and order:- 27.1.2026

Mr. Kanwar Majahid Ali Khan, advocate for the petitioner
Mr. Abdul Jalil Zebedi AAG
Ms. Humaira Jatoi advocate for SBCA

ORDER

Adnan-ul-Karim Memon, J.- The petitioner has filed the captioned Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following prayer:-

- a. Declare that the concerned residential plot abutting the declared commercial road cannot be utilized for ballrooms and such commercial activities that attract large numbers of people;*
- b. Declare that letter SBCA/DD/District-Central/2024/272 dated 29.05.2024 is illegal, void and have n legal effect;*
- c. Declare that giving the Respondent Nos. 5 to 11 unlimited discretion with regards to choosing which commercial activity to open and operate is unlawful;*
- d. Declare that the operation of ballrooms on 1st to 5th floors is illegal and ultra vires the law, including Regulations, 2002;*
- e. Declare that the Respondent No.2 has acted malafidely by deliberately failing to ensure compliance with building laws, including the Regulations 2002;*
- f. Declare that the actions and inactions of Respondent Nos. 1 to 4, failure to ensure compliance of applicable laws and prevent illegal utilization of plot as empowered under the laws, including Ordinance, 1979 and subordinate laws, such as Regulations 2002, are illegal, malafide and unlawful;*
- g. Permanently and pending disposal of the instant petition, immediately seal the impugned building, suspend the operations of all the ballrooms and any other commercial activity being carried out within the impugned building. Further suspend any construction and other building works being carried out in relation to the impugned building, and so also restrict the Respondent Nos. 5 to 11 from creating any third-party rights and or interests.*
- h. Direct the Respondent No.2 to demolish the impugned building under section 7A of the Ordinance, 1979, read with section 6 thereof.*

2. The petitioner, who claims to be a medical professional and resident of F.B. Area, Karachi, has challenged the construction and commercial utilization of a residential plot bearing No. C-2, Block-20, Scheme-16, F.B. Area, measuring 600 square yards. The counsel for petitioner contends that the respondents have illegally converted the residential plot into a multi-storey building comprising five ballrooms, in clear violation of the Sindh Building Control Ordinance, 1979 and the Sindh Building Control Regulations, 2002. It is the petitioner's case that the

law does not recognize “ballrooms” as a permissible commercial activity and, even if treated analogously to wedding halls or banquet facilities, such use is impermissible on a plot measuring less than 2000 square yards. The petitioner’s counsel further alleges that multiple ballrooms are being operated one above the other, which is not sanctioned under the Regulations, 2002. Serious violations regarding mandatory parking requirements have also been pointed out, as no off-street parking has been provided, resulting in traffic congestion and hardship to local residents. The petitioner’s counsel further submits that unauthorized construction, including the addition of a mezzanine floor, is being carried out beyond the approved plan, without lawful sanction. Despite repeated complaints to the Sindh Building Control Authority (SBCA) and other relevant authorities, no effective action has been taken, which, according to the petitioner, amounts to malafide conduct and failure to discharge statutory duties. It is urged that the petitioner also challenges the legality of the approval letter dated 29.05.2024, environmental non-compliance, and unlawful utility connections. Learned counsel for the petitioner in support of his contention has relied upon the cases of Muhammad Anas Kapadia & others v M. Farooq Haji Abdullah & others **2007 CLC 943**, Porsche Middle East and Africa FZE and another v Akbar Adamjee and others **PLD 2020 Sindh 415**, and Government of Pakistan v M.I Cheema Dy. Registrar Federal Shariat Court & others **1992 SCMR 1852**. He prayed to allow this petition.

3. On the other hand, learned counsel for the Respondent No.2 (SBCA), submits that the construction has been carried out based on duly approved building plans. It is stated that approval was initially granted for the construction of a basement, ground floor, and first to fifth floors for ballrooms, and subsequently, a revised plan was submitted seeking approval for additional floors. According to SBCA, construction up to the basement, ground, and five upper floors has been completed and is currently under finishing. It is submitted that, though the SBCA acknowledges that certain deviations have been observed, it is contended that the completion plan has been submitted and the same shall be scrutinized in accordance with the law. It is further stated that, in case any violations are found beyond compoundable limits, appropriate action shall be taken as per law. It is emphasized that the authority maintains that, at this stage, the petition is premature and appears to be motivated, as the matter is still within the regulatory process.

4. Having heard the learned counsel for the parties present in court and perused the record, with their assistance, this Court observes that the controversy raised in the present petition involves disputed questions of fact relating to the nature of construction, the extent of deviations from the approved building plan, compliance with the Sindh Building Control Ordinance, 1979 and the Sindh

Building Control Regulations, 2002, as well as the legality of the commercial activities being carried out in the impugned building. Such matters require factual determination through inspection and technical scrutiny, which cannot be conclusively undertaken in constitutional jurisdiction under Article 199 of the Constitution at this stage until and unless the order is passed by the competent authority at the first instance, by hearing the parties concerned.

5. It is also noted that the Respondent No.2 (SBCA) has admitted that certain deviations have been observed and that the completion plan is yet to be scrutinized in accordance with the law. In these circumstances, it would be appropriate and in the interest of justice to remit the matter to the competent statutory authority for proper examination of the issues involved in the matter.

6. Accordingly, the Director General, Sindh Building Control Authority, is directed to personally or through a duly authorized senior officer inspect the impugned premises, afford an opportunity of hearing to the petitioner as well as the concerned respondents, and thereafter pass a detailed speaking order strictly in accordance with the provisions of the Ordinance, 1979, the Regulations, 2002, and any other applicable law, within the prescribed statutory mechanism.

7. The Director General, SBCA, shall ensure that the inspection addresses, inter alia, the approved building plans, alleged deviations therefrom, the permissibility of the commercial activity being carried out, parking requirements, and any other violations pointed out by the petitioner. The entire exercise shall be completed expeditiously, preferably within a stipulated time frame as per SOP.

8. It is clarified that in case the petitioner remains aggrieved by the order so passed by the competent authority, he shall be at liberty to avail the remedy available to him under the law.

9. Without touching the merits of the case and the above observations and directions, the present Constitutional Petition, along with pending application(s) stands disposed of.

JUDGE

JUDGE