

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-4313 of 2026
(Hasan Afzal Khan versus Province of Sindh and others)

Date	Order with signature of Judge
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Before:-

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Muhammad Jaffer Raza

Date of hearing & order: 24.8.2026

Mr. Irfan Aziz advocate for the petitioner.

M/s Ghulam Akbar Lashari, Qazi Amanullah and Humaira Jatoi, advocates for SBCA.

Mr. Zohaib Sirki, Addl. AG Sindh.

ORDER

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

- a) *To declare that construction activities by respondent No.8 are illegal, void and without lawful authority for project namely "NK ICON" on TRUST PROPERTY bearing plot no.275-AM, measuring 965 square yards as per dimensions & measuring 860 square yards as per record, situated at Shahrah e Iraq, Artillery Maidan Quarters, next to corner from ABDULLAH HAROON ROAD, opposite Block 46 PAKISTAN SECRETARIAT & near Passport Office, opposite Paradise Hotel, Saddar Town, Karachi..*
- b) *To cancel extension of lease executed by respondent no.6 of the trust property.*
- c) *To grant permanent injunction against respondents from construction work, all civil works, sale, booking, transfer / mutation and creating any third party on the said TRUST PROPERTY for project namely "NK ICON" bearing plot no.275-AM, measuring 965 square yards as per dimensions & measuring 860 square yards as per record, situated at Shahrah e Iraq, Artillery Maidan Quarters, next to corner from ABDULLAH HAROON ROAD, opposite Block 46 PAKISTAN SECRETARIAT & near Passport Office, Saddar Town, Karachi, in any manner whatsoever without due process of law and till the disposal of instant petition.*
- d) *To Direct Respondents No.5 & 6 / SBCA officials to immediately stop, seal, stop all civil work, demolish all unauthorized construction and evacuate all illegal occupants from the said trust land property immediately till finalization of instant petition.*
- e) *To appoint commissioner with directions to prepare detailed site inspection report with measurements / demarcation, Mark boundaries, fresh photos, videos, and identify illegal construction for project namely NK ICON on plot no.275 AM & also do the same for plot no.272-AM-3 Artillery Maidan Quarters, Saddar Town, Karachi.*

f) To declare Respondent No.8 has wrongly mentioned plot no. 272 AM-3 on said project NK ICON, situated at SHAHRAH E IRAQ, ARTILLERY MAIDAN QUARTERS, SADDAR, Karachi.

g) To Direct Respondents No.2,3, 10&11 to provide police protection to Petitioner and also ensure compliance of court orders.

h) To Direct Respondent no.9/SHO PS PREEDY to provide assistance to SBCA officials for sealing/demolition of the said TRUST PROPERTY for project namely "NK ICON".

i) Grant any other relief which this hon'ble court deems fit and proper in accordance with facts and circumstances of this petition.

2. Through this constitutional petition, the petitioner seeks protection of the alleged trust property bearing Plot No.275-AM, Shahrah-e-Iraq, Artillery Maidan Quarters, Karachi, and restraint against the alleged unauthorized construction and commercial development of “NK Icon Tower” by respondent No.8.

3. It is contended by the counsel for the petitioner that the property belongs to Al-Jamiyyatul Arabiyyah, Pakistan, and that respondent No.8 has commenced multi-storey construction without lawful authority, requisite approvals/NOCs or valid transfer/mutation, while also marketing commercial units. The petitioner’s counsel has relied upon title and trust documents, the lease extension, photographs, project signage and complaints made to the authorities. He prayed to allow this petition.

4. Learned Additional AG assisted by the counsel for SBCA has opposed the petition as not maintainable, particularly in view of Section 16 of the Sindh Building Control Ordinance, 1979, contending that the dispute essentially concerns the identity, location and demarcation of the property and therefore involves disputed questions of fact. It is submitted that the construction is being carried out on Plot No.272-AM-3, not Plot No.275-AM, pursuant to an approved building plan granted on 19.07.2019, and has substantially reached Basement + Ground + 15 Upper Floors. According to the learned counsel for respondents, Plot No.275-AM is a separate adjacent plot and remains vacant. It is therefore argued that the alleged encroachment, if any, upon the trust property cannot be determined in constitutional jurisdiction without proper demarcation and examination of the relevant revenue and land records, and that the petitioner has failed to establish any unlawful construction warranting interference by this Court.

5. Having considered the pleadings, submissions of the learned counsel for the parties and the material placed on record.

6. The principal controversy between the parties is not merely whether the construction raised by respondent No.8 is authorized, but fundamentally concerns the identity, location, ownership/possession and demarcation of Plot No.275-AM vis-à-vis Plot No.272-AM-3. The petitioner asserts that the construction of “NK ICON” is being raised upon the alleged trust property bearing Plot No.275-AM, whereas the respondents categorically maintain that the construction is confined to Plot No.272-AM-3, for which an approved building plan was sanctioned on 19.07.2019, and that Plot No.275-AM is a separate adjoining plot and remains vacant.

7. These rival assertions raise disputed questions of fact which cannot satisfactorily be resolved merely based on photographs, project signage, lease documents or the allegations made in the petition. Determination of the actual location and boundaries of the plots necessarily requires examination and verification of the original title, lease, revenue, survey, site plans, approved building plans and other relevant land records, besides physical demarcation by the competent authority. Such an exercise falls outside the normal scope of constitutional jurisdiction under Article 199, particularly where the foundational facts themselves are seriously disputed.

8. Moreover, the petitioner has not placed before this Court any conclusive material demonstrating that the construction presently standing at the site is in fact situated upon Plot No.275-AM or that respondent No.8 has unlawfully encroached upon the alleged trust property. Conversely, the respondents have asserted that the construction is being undertaken on Plot No.272-AM-3 pursuant to an approved building plan and that Plot No.275-AM remains vacant. In the absence of an authoritative demarcation or determination by the competent forum, this Court cannot, in constitutional jurisdiction, presume the correctness of either version and issue drastic directions for sealing, demolition, evacuation or cancellation of lease rights.

9. The reliefs sought by the petitioner, particularly cancellation of the lease extension, declaration regarding title/location of the property, permanent restraint against transfer or creation of third-party interests, appointment of a commissioner for demarcation and demolition of the alleged unauthorized construction, are substantially dependent upon determination of disputed factual and proprietary rights. Such reliefs cannot ordinarily be granted under Article 199 merely based on disputed assertions, especially where an efficacious remedy is available before the competent civil/revenue forum.

10. Furthermore, Section 16 of the Sindh Building Control Ordinance, 1979, as relied upon by the respondents, provides an additional statutory impediment to

invoking constitutional jurisdiction where the grievance relates to matters falling within the statutory regulatory framework, unless the petitioner establishes a clear case of illegality, lack of jurisdiction or violation of a fundamental/legal right warranting constitutional interference. No such clear and undisputed case has been established in the present proceedings.

11. It is also significant that the approved building plan is stated to have been sanctioned as far back as 19.07.2019 and the construction has substantially progressed to Basement + Ground + 15 Upper Floors. In such circumstances, a direction for immediate sealing or demolition, without first establishing through competent proceedings that the construction stands upon Plot No.275-AM or is otherwise unauthorized, would cause serious civil consequences and cannot be founded upon disputed assertions alone.

12. Accordingly, we find that the petitioner has failed to establish any patent illegality, want of jurisdiction, or violation of a legally enforceable right warranting interference by this Court in its constitutional jurisdiction. The controversy regarding the exact identity, boundaries, title, possession and alleged encroachment upon Plot No.275-AM involves disputed questions of fact requiring evidence and proper demarcation, which cannot effectively be adjudicated in the present proceedings.

13. Consequently, the Constitutional Petition is dismissed, being not maintainable in the present form.

JUDGE

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