

IN THE HIGH COURT OF SINDH AT KARACHI

Present

Mr. Justice Yousuf Ali Sayeed

Mr. Justice Abdul Mobeen Lakho

C.P. No.S-1779 of 2024

[City School Pvt. Ltdv..... Province of Sindh & others]

Date of Hearing : 18.11.2025

Petitioner through : Mr. Ravi Pinjani, Advocate a/w Mr. Hamza Hidayatullah, Advocate

Respondents through : Ms. Rizwana Ismail, Advocate for Respondent No. 2 & 6. a/w Mr. Noor Muhammad, Advocate

Mr. Faisal Siddiqui, Advocate for Respondent No.3 a/w Mr. Syed Raza Mamnoon.

Mr. Ali Safdar Deepar, AAG Mr. Agha Mustafa Durrani, Advocate.

ORDER

Abdul Mobeen Lakho, J:- Through this petition, the petitioner is beseeching as follows:-

“(A) Direct the Respondent No.3 to ensure compliance of the Supreme Court’s Order dated 19.10.2023 passed in Civil Petition NO. 4266/2018 and connected matters.

(B) In the alternate, appoint the learned Nazir of this Court to undertake the special General Meeting in the manner as prescribed in the Supreme Court Order.

(C) Direct imprisonment of the members of the governing body/management of the Respondent No.3.

(D) Order attachment of the personal properties of the members of the Governing Body and persons managing the affairs of

Respondent No.3's properties until such time as compliance is fully rendered.

(E) Restrain the Respondent No.3 from creating any third party interest in plot No. ST-2, Block 8, Gulshan-e-Iqbal, University Road, Karachi ad-measuring 14,094 sq yards located within the Respondent No.3 Society.

(F) Award costs of this petition to the petitioner against the Respondent No.3.

(G) Any other order or direct deemed fit and proper in the circumstances.

2. Precisely, the facts are that the Petitioner is an Educational Society and through instant writ is making entreatment regarding implementation of the Supreme Court's edict rendered in Civil Petition No.4266/2018 on 19.10.2023. It is considered expedient to reproduce the relevant excerpt of the edict of the Supreme Court which required to be enforced through instant writ and the same is delineated hereunder:-

"6. Given the above circumstances, and considering that rights have been endorsed in favour of the petitioner, it would be unfair to summarily reject its claim, while also giving due regard to the views and opinions of the members/residents of the Society. Thus, in order to safeguard the interests of the petitioner, while respecting the collective will of the members/residents of the Society, it is imperative that the petitioner's proposal be subject to comprehensive deliberation and decision-making by General Body of the Society, in accordance with terms delineated below:-

i) The Works Cooperative Housing Society Limited is directed to convene a Special General Meeting, to be held at the Central Library and Community Centre of the Society, located at Plot NO. st-9f, Block-8, Gulsha-e-Iqbal, Karachi on 28.01.2024 at 12:00 pm;

ii) The City School (Pvt.) Limited, Karachi shall submit a detailed proposal covering all pertinent

aspects, including facilities and fee structure, to the Secretary of the Society within a period of 30 days, for its further transmission to the members/ residents of the Society at least, thirty days prior to the date of the Special General Body meeting;

iii) Subsequent to its presentation, the proposal of the City School (Pvt) Limited, Karachi shall, on the day of the convened Special General Body meeting, be submitted for approval to the General Body of the Society through a formal voting process;

iv) We direct that the Nazir of the High Court of Sindh be present during the entire proceeding and voting of the Special General meeting of the Society to be held on 28.01.2023. A report concerning these proceedings shall also be prepared by him and be submitted before this Court for our perusal in Chambers. The Nazir fee of Rs. 20,000/- shall be paid by the petitioners in advance; and

v)) In the event that the Special General Meeting rejects the proposal tendered by the petitioner, the petitioner shall relinquish peaceful and vacant physical possession to the Secretary of the Society, within 15 days thereafter.”

3. Mr. Ravi Pinjani, learned counsel for the Petitioner contended that it is an apathy of the Respondent No.3 in not implementing the edict rendered by the Supreme Court. Mr. Pinjani further contended that the petitioner has been left remediless on account of the persistent, deliberate and contumacious non-compliance by Respondent No.3 with the unequivocal directions issued by the Honourable Supreme Court in its order dated 19.10.2023 passed in Civil Petition No. 4266/2018 and connected matters. He next contended that the Supreme Court had mandated a series of time-bound acts to be performed by Respondent No.3 culminating in the convening of a Special General Meeting on 28.01.2024 under the supervision of the learned Nazir of this Court, yet the governing body

of Respondent No.3 has willfully frustrated the process and has not adhered to the directives. Counsel further submits that the petitioner duly complied with the obligations placed upon it by the Honourable Supreme Court, including preparation and submission of the requisite proposal within the stipulated time. However, Respondent No.3 not only failed to convene the Special General Body Meeting on the date fixed by the Honourable Supreme Court, but also took steps which, according to learned counsel, were calculated to defeat the implementation of the Supreme Court's edict and to deprive the petitioner of the rights recognised therein. He adds that such defiance on the part of Respondent No.3 has occasioned serious prejudice to the petitioner and undermined the sanctity of the judicial process. Learned counsel further submits that where a party deliberately obstructs compliance of the Supreme Court's directions, the High Court, while exercising constitutional jurisdiction, may issue appropriate directions to "ensure obedience of the law" and to "give effect to judgments of the superior courts." According to him, the limited purpose of the present petition is not to seek a fresh or independent adjudication, but only to secure the execution of what already stands finally determined by the Supreme Court. While concluding his submissions, Mr. Pinjani placed reliance on statutory prescriptions such as Sections 36, 38, 37(a), Order XLV Rule 15 (1) CPC which per learned counsel empowers this Court to enforce Supreme Court's directions/orders. He relied on the following precedents:-

- *Saeeda Sultan v. Liaqat Ali Orakzai*¹
- *Kainaat Soomro v. Province of Sindh*²

¹ PLD 2021 S.C. 671

- *Amanullah Khan Yousufzai v. Federation of Pakistan*³
- *Khushi Muhammad v. Inspector General of Police, Punjab Lahore*⁴.
- *Rashid Baig v. Muhammad Masha*⁵
- *Khanzada Ainuddin Khan v. Feroz Khan*⁶
- *Sakhi Jan v. Shahnawaz & others*⁷

4. In contrast, Mr. Faisal Siddiqui, learned Senior Counsel defended the Respondent No.3 contending that petition is misconceived and not maintainable before this Court in the form it has been filed. Mr. Siddiqui premised his case on the argument that the relief sought is, in essence, enforcement of a Supreme Court order, including directions for imprisonment and attachment of property, which, according to him, falls exclusively within the jurisdiction of the Supreme Court. He emphasizes that a High Court cannot directly compel the implementation of directions issued by the Supreme Court or assume powers akin to contempt jurisdiction of the apex court. He further submitted that the petitioner's prayers, particularly (C) and (D), are wholly beyond the competence of this Court. The authority to imprison members of the governing body or attach personal property for non-compliance of a Supreme Court order rests solely with the Supreme Court, which retains supervisory and contempt powers. According to him, this Court cannot convert itself into an enforcement forum for the orders of the apex Court. Learned counsel submits that the Supreme Court had already prescribed a clear framework for the convening of the Special

² PLD 2020 Sindh 611

³ PLD 2011 Karachi 451

⁴ 1999 SCMR 2868

⁵ 2024 SCMR 1385

⁶ 1992 SMCR 2175

⁷ 2020 SCMR 832

General Meeting, including supervision by the Nazir of this Court and reporting mechanism. Therefore, any issue regarding execution or compliance should be addressed before the Supreme Court itself, which retains ultimate supervisory authority. According to him, the present petition seeks to bypass the proper forum and is thus procedurally improper. So as to bulwark his submissions, learned counsel placed reliance on the following dictums:-

- *Suo Moto Case No. 4 of 2010*⁸
- *Ghulam Shabbir v. Federation of Pakistan*⁹
- *Sohail Maqbool Awan v. Fahad Idrees*¹⁰
- *Ghulam Murtaza v. Ghulam Jillani*¹¹

5. We have heard the respective learned counsel and reviewed the record available before the Court. The petition under consideration, filed by the petitioner seeking enforcement of the Supreme Court's order dated 19.10.2023 passed in Civil Petition No. 4266/2018 and connected matters, has been examined in light of the submissions made by learned counsel for the parties and the record available before this Court. It is noted that the relief sought by the petitioner, including direction for convening of a Special General Meeting, appointment of the Nazir, imprisonment of members of the governing body, attachment of properties, and restraining third-party dealings, essentially pertains to enforcement and execution of a Supreme Court order.

6. The supervisory mechanism prescribed by the Supreme Court, including the role of the Nazir of this Court in reporting proceedings of the Special General Meeting, does not confer upon this Court any

⁸ 2012 PLD S.C. 553

⁹ 2018 PLC (C.S.) 676

¹⁰ 2021 MLD 556

¹¹ 2000 YLR 1798

power to direct coercive compliance¹² or to assume the functions of the apex Court in matters of execution. The Petitioner before this Court under the prescriptions of Article 187 of the Constitution, 1973 which provides that *“Any direction, order or decree shall be enforceable throughout Pakistan and shall, where it is to be executed in a Province, or a territory or an area not forming part of a Province but within the jurisdiction of the High Court of the Province, be executed as if it had been issued by the High Court of that Province”*. A bare perusal of this Article clearly reflects that an order of the Hon’ble Supreme Court shall be executed in a Province by the High Court as if it has been issued by the High Court of that Province. Now if an order or Judgment has been issued by the High Court, the same can be executed through various modes as provided in law and for Constitutional matters, reference may be made to the provisions of Contempt of Court Ordinance, 2003 and so also to Article 204 of the Constitution. In fact instant petition has to be treated as a contempt petition for alleged violation of the orders of the Hon’ble Supreme Court.

7. A scrutiny of an edict of the Hon’ble Supreme Court which is sought to be implemented through present proceedings, unequivocally settled methodology for resolving the dispute between the Petitioner and Respondent society and such methodology has already been incorporated in the operative part of the order and Nazir of this Court was directed per Para-6(iv) of the Order to be present during the voting of the Special General meeting of the society on 28.01.2024 where a proposal was to be submitted by the

¹² Per prayer clause (D) which articulates that *“Order attachment of the personal properties of the members of the Governing Body and persons managing the affairs of Respondent No.3’s properties until such time as compliance is fully rendered.*

petitioner before the Respondent society within thirty (30) days. It is noted with concern that such a time as mentioned above has already been elapsed and this Court under the prescriptions of Article 187 of the Constitution, 1973 neither can extend the time so specified in the edict of the Supreme Court, sought to be implemented/enforced nor can adopt the role of the Court passing the order rather it has a limited scope to the extent of its implementation.

8. Article 187 of the Constitution enables the enforcement of the directions, orders or decrees of the Honourable Supreme Court throughout Pakistan, such enforcement by a High Court is confined strictly to execution as it stands. The High Court cannot, under the guise of enforcement, alter the substance of the order, extend timelines fixed by the Supreme Court, substitute the mode of compliance, or issue fresh directions which were neither contemplated nor authorised by the apex Court. Any such exercise would amount to modification of the Supreme Court's judgment, which is constitutionally impermissible.

9. In the present case, the Honourable Supreme Court had clearly fixed the date of the Special General Meeting as 28.01.2024, prescribed the manner in which the proposal was to be placed before the General Body, and laid down the consequences flowing from acceptance or rejection of the proposal. The timeline so fixed has admittedly expired. This Court is neither competent to reschedule the meeting nor empowered to revive or reconstruct the process by issuing directions afresh. Doing so would effectively result in this Court stepping into the shoes of the Supreme Court, which the constitutional scheme does not permit.

10. Furthermore, the prayers made by the petitioner seeking imprisonment of the members of the governing body, attachment of their personal properties, and coercive directions for compliance, unmistakably fall within the realm of contempt jurisdiction for which the petitioner has already filed a Crl. Miscellaneous Petition No. Nil of 2024 in CPLA No. 4266/2018.

11. It is also pertinent to note that the Hon'ble Supreme Court, while passing the order dated 19.10.2023, had itself devised a complete and self-contained mechanism for implementation as well as settled a time frame for vacation of the subject property by the petitioner, therefore, such a time has already been expired.

12. In view of the above discussion, this Court is of the considered opinion that the present petition is not maintainable. This Court, while acting under Article 187 of the Constitution, cannot extend the time stipulated by the Honourable Supreme Court, modify or supplement its directions. Accordingly, this constitutional petition is dismissed, with no order as to costs.

Karachi
Dated:16.02.2026

JUDGE

JUDGE

Aadil Arab