

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-194 of 2026
(*Ruqia Taufeeq Mohiuddin versus Province of Sindh & others*)

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

Date of hearing and order: 17.2.2026

Mr. Muhammad Vawda advocate for the petitioner
Mr. Ali Safdar Depar, Assistant AG
Syed Ahsan Imam Rizvi advocate for respondent No.2
Mr. Muhammad Siddique Darya advocate for respondent No.3

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) *Issue a writ of mandamus directing the Government of Sindh, through the Registrar of Societies and other competent authorities, to forthwith exercise powers under Section 16-A of the Societies Registration Act, 1860, including supersession of the existing governing body of Respondent No.2 and appointment of an Administrator, pending determination of the legality and subsistence of its registration and restoration of lawful governance,*
- (b) *Declare that the Respondent No.2 has no legal existence or authority to interfere in the affairs of the Society, as Section 20 of the Societies Registration Act, 1860, is not applicable to the Respondent No.2, and direct the Respondent No.5 to cancel the so-called registration of the Respondent No.2:*
- (c) *Direct the Respondents No.2 and No.5 to place before this Court the complete registration record of Respondent No.2, including date of registration, registration number (if any), filed annual lists, audited accounts, and all statutory filings;*
- (d) *Direct the Respondent No.5 to conduct an independent audit of all funds collected or expended by the Respondent No.2, including but not limited to maintenance and security charges, and further direct the Respondent No.2 to produce audited accounts, vouchers, expenditure details, and complete minutes of all meetings.*
- (e) *Restrain the Respondent No.2 from deploying private guards or the operation of access-control mechanisms at the Society's gates. collecting maintenance charges from the residents of the Respondent No.3, including the Petitioner, managing funds, or interfering in the affairs of the KDA Officers Co-operative Housing Society and direct the removal of all such guards and access restrictions forthwith and that all bank accounts, cash accounts, or any other financial instruments of the Respondent No.2 used for collection or retention of funds be immediately frozen to prevent further misuse or misappropriation of money:*

2. The case of the Petitioner is that she is the lawful owner of the commercial Plot No. A-213, situated in KDA Officers Co-operative Housing Society, acquired through a registered Lease dated 06.06.2024 executed by the Society, which expressly declares the subject property to be commercial in nature without any dispute from the Society or its members. It is submitted that Respondent No.2, claiming to be a registered welfare association, is functioning without lawful authority, as its purported registration certificate neither bears any registration number nor corresponds with any verifiable statutory entry maintained by the Registrar under the Societies Registration Act, 1860, thereby rendering its legal status doubtful. Consequently, the Petitioner has filed the instant Constitutional Petition, seeking a writ of mandamus directing the Government of Sindh to exercise powers under Section 16-A of the Societies Registration Act, 1860 by superseding the existing governing body of Respondent No.2 and appointing an Administrator, along with a declaration that Respondent No.2 has no legal authority to interfere in the affairs of the Society, cancellation of its purported registration, production of its complete registration record, and an independent audit of all funds collected or expended by it.

3. Learned counsel for the petitioner submits that Respondent No. 2, by its very nature and functions relating to collective management of housing affairs, maintenance, and administration of members, falls within the domain of cooperative societies governed by the Sindh Cooperative Societies Act, 2020 and is statutorily barred from registration under the Societies Registration Act, 1860 in view of Section 20 thereof. Consequently, its purported registration is void ab initio and confers no legal authority upon it to regulate the affairs of the Society. It is argued that despite lacking lawful status, Respondent No. 2 has unlawfully assumed administrative control within the Society by deploying private guards, regulating ingress and egress through issuance of entry tokens, and collecting monthly maintenance charges from residents, including the Petitioner, without any statutory sanction or accountability mechanism. He argued that repeated requests made by the Petitioner for audited accounts, expenditure details, and minutes of meetings have not been responded to, giving rise to a reasonable apprehension of financial mismanagement and misuse of funds. Learned counsel submits that Respondent No. 2 is collecting substantial monthly amounts from residents under the pretext of maintenance and security and is utilizing such funds for unauthorized purposes, including litigation, instead of welfare activities. The continued collection and handling of such funds by an unregulated entity necessitates immediate scrutiny by the competent authorities to ensure transparency and lawful governance. It is lastly submitted that despite being the competent regulatory authority, the concerned official Respondents have failed to restrain the unlawful acts of Respondent No. 2, thereby allowing an unregistered

body to interfere in matters reserved exclusively for a registered cooperative society. He argued that the Petitioner, having exhausted all available remedies, has invoked the constitutional jurisdiction of this Court for protection of her fundamental rights and for issuance of appropriate directions to ensure lawful administration and accountability in the affairs of the Society. He prayed to allow this petition.

4. Learned counsel for Respondent No. 2 submits that the instant Petition is not maintainable and has been filed with malafide intent solely to frustrate lawful proceedings already initiated against the Petitioner in respect of illegal and unauthorized construction being carried out at Plot No. A-213, K.D.A. Officers' Co-operative Housing Society, Karachi (the subject property). It is contended that Respondent No. 2 has already instituted Suit No. 11736 of 2025 titled *KDA Officers Welfare Association vs. Province of Sindh & others*, wherein the learned trial Court vide Order dated 01.12.2025, restrained the Petitioner from raising further construction. He argued that the said order was subsequently restored in effect through the Order dated 04.02.2026 passed in Civil Revision No. 21 of 2026 by this Court, which is still holding the field. He submitted that the Petitioner has deliberately concealed these material facts and approached this Court with unclean hands. Learned counsel further submits that the Petition involves disputed and controversial questions of fact, particularly regarding the nature and permissible use of the subject property, which cannot be adjudicated upon in constitutional jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, as the same requires recording of evidence before a competent forum. It is argued that the Petitioner is neither an aggrieved person nor possesses the requisite locus standi to maintain the instant Petition, which has been filed merely to harass and intimidate the private Respondent and to derail proceedings lawfully initiated to protect the residential character of the Society. It is further submitted that Respondent No. 2 is a duly registered residents' welfare association operating under Section 20 of the Societies Registration Act, 1860, for charitable and welfare purposes of the residents of K.D.A. Officers' Co-operative Housing Society. He emphasized that the Association has been maintaining civic amenities, security arrangements, and welfare facilities within the Society through the collection of maintenance charges from residents, which is a recognized and lawful practice in residential communities across Karachi. Learned counsel contends that the subject property, measuring 265 square yards, falls within Category-A residential plots as per the approved Layout Plan dated 10.04.1994, which are earmarked exclusively for residential purposes. The Petitioner, however, has attempted to convert the subject property into a multi-story commercial building on the basis of a manipulated Lease Deed dated 06.06.2024 and a subsequent Deed of Rectification dated

24.07.2025, which are stated to be contrary to the approved Layout Plan and binding law. It is argued that the marking of the subject property as commercial through such rectification does not alter its original residential nature, particularly in view of the binding judgment of the Supreme Court of Pakistan reported as **2020 SCMR 111**, whereby a complete ban has been imposed upon unauthorized change of land use within the city. It is lastly submitted that Respondent No. 2, acting on complaints received from residents, has challenged the illegal construction being carried out by the Petitioner to safeguard the residential character of the Society and the fundamental rights of its members guaranteed under Articles 4, 23, and 24 of the Constitution. He argued that the instant Petition, being filed with ulterior motives and in abuse of the process of law, is liable to be dismissed with costs.

5. Learned counsel for Respondent No. 3 submits that there exists no dispute between Respondent No. 3/ the Society and the Petitioner concerning the status of the subject property. Learned counsel further submits that Respondent No. 2, though claiming to be a registered association, is operating illegally within the area and domain of Respondent No. 3 and is continuously interfering with its lawful authority and mandate as the registered Co-operative Housing Society. It is argued that under the garb of security and welfare of residents, Respondent No. 2 has been encroaching upon the functions exclusively vested in Respondent No. 3, which is the lawful custodian of the rights and interests of the residents of the Society. It is further submitted that Respondent No. 2 has been collecting monthly maintenance charges from residents without any lawful authority or permission of Respondent No. 3 and without any transparency or accountability regarding the utilization of such funds. Learned counsel contends that Respondent No. 2 is neither registered with the Co-operative Department nor is it a Co-operative Society under the applicable law; therefore, it lacks the locus standi or mandate to interfere in matters relating to security, cleanliness, welfare of residents, or legality of construction within the Society, which fall exclusively within the jurisdiction of Respondent No. 3 under its byelaws. Learned counsel also submits that Respondent No. 3 had previously sought cancellation of Respondent No. 2 through a letter dated 10.09.2022; however, no action was taken by the concerned authority. It is argued that the continued existence and functioning of Respondent No. 2 as an unauthorized association severely prejudices the mandate and authority of Respondent No. 3. It is lastly submitted that no substantive relief has been sought by the Petitioner against Respondent No. 3 in the instant Petition; therefore, Respondent No. 3 supports the case of the petitioner, while requesting for inquiry into the affairs and functioning of Respondent No. 2.

6. From the pleadings of the parties and the material placed on record, we have noticed that the controversy in the instant Petition does not pertain to the

question of alleged construction by the Petitioner at Plot No. A-213, but rather to the legal authority and competence of Respondent No.2 to assume regulatory or administrative control within the limits of Respondent No.3 Society.

7. Admittedly, Respondent No.3 is a duly registered Cooperative Housing Society governed under the Sindh Co-operative Societies Act, 2020, which is the exclusive statutory framework regulating the management, administration, maintenance, security, and welfare affairs of its members. The record further reflects that Respondent No.2 is neither registered as a Cooperative Society under the said Act nor has been conferred any statutory mandate by Respondent No.3 to undertake civic management, regulate ingress and egress, deploy private security personnel, or collect maintenance charges from residents. Even otherwise, the very nature of functions admittedly performed by Respondent No.2, namely collective management of residents' affairs, maintenance of civic amenities, security arrangements, and administration of funds collected from members, squarely falls within the statutory domain of a Cooperative Society and not a society registered under the Societies Registration Act, 1860. In this regard, Section 20 of the Societies Registration Act, 1860, does not envisage registration of an entity for assuming parallel governance or administrative control over an already existing statutory Cooperative Housing Society. Any such registration, even if assumed to exist, would not confer lawful authority upon Respondent No.2 to interfere in matters exclusively regulated under the Cooperative regime.

8. It is well settled that where a statute provides a complete mechanism for the regulation of a particular field, no parallel or unauthorized arrangement can be permitted to operate in derogation of such statutory scheme. It is also a well-settled principle of law that administrative or regulatory control over planned residential schemes must strictly flow from a statutory authority and cannot be exercised by private bodies lacking legal mandate. Furthermore, it is now a settled principle of law that any act performed by a body without lawful jurisdiction is *coram non iudice* and of no legal effect. Therefore, if the actions taken are without legal authority and are void *ab initio*, they are liable to be restrained by the constitutional court in exercise of jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973.

9. The reliance placed by Respondent No.2 upon pending civil proceedings relating to alleged unauthorized construction is wholly misconceived, as the issue of land use or legality of construction is distinct from the question of locus standi and legal competence of Respondent No.2 to intervene in the internal administration of Respondent No.3 Society. Even otherwise, such proceedings cannot legitimize the assumption of statutory functions by an admittedly unregulated private association.

10. In the present case, Respondent No.3 itself has supported the stance of the Petitioner and has expressly disowned any authorization in favour of Respondent No.2 to manage security arrangements, collect maintenance charges, or interfere in the affairs of the Society. This position further reinforces the absence of a lawful mandate in favour of Respondent No.2.

11. In view of the above, it is held that Respondent No.2 has no legal authority, statutory mandate, or jurisdiction to interfere in the affairs of Respondent No.3 Society, including but not limited to deployment of private guards, regulation of access, collection of maintenance charges, or management of funds from residents. Such interference, being without lawful sanction, is illegal and is hereby required to be halted forthwith.

12. Accordingly, the competent authorities are directed to take appropriate action in accordance with law to ensure that Respondent No.2 ceases to exercise any administrative or financial control within the limits of Respondent No.3 Society, and to safeguard the lawful governance framework envisaged under the applicable cooperative laws.

13. The Petition, along with pending application(s), stands disposed of in the above terms.

JUDGE

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