

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Constitutional Petition No. D-4039 of 2025
(Muhammad Javed Iqbal & another 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: 13.2.2026

Mr. Ahmed Masood, advocate alongwith Mr. Muhammad Altaf advocate, for the petitioners

Mr. Ali Safdar Debar, Assistant AG

Ms. Humaira Jatoi advocate for SBCA

Malik Naeem Iqbal, advocate for the alleged contemnor

Mr. Ashraf Ali Mirani, Law Officer, Culture, Tourism, Antiquities and Archives Department

ORDER

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

- i. Declare that the impugned notice issued by respondent No.2 on 08.8.2025 is unlawful and malafide.*
- ii. Declare that respondent No.2 has no jurisdiction to take any coercive measures against the petitioners.*

2. It is the case of the Petitioners that they are the lawful owners of Plot No. 13, Sheet No. CL-7, Civil Lines Quarters, Karachi, upon which a structure exists that has been declared a “Protected Heritage” under Section 6 of the Sindh Cultural Heritage (Preservation) Act, 1994. It is submitted that unless an agreement is entered into between the owner and the Committee constituted under Section 8 of the Sindh Cultural Heritage (Preservation) Act, 1994, no restriction or embargo can be placed either upon demolition or construction over the said property, the impugned notice issued by respondent No.2 on 08.8.2025 is unlawful and malafide.

3. Learned counsel for the petitioner submits that all requisite approvals were obtained from the Sindh Building Control Authority (SBCA) for carrying out construction upon the open area surrounding the protected heritage structure. However, upon commencement of construction activities, Respondent No. 2 interfered and issued a Show Cause Notice dated 08.08.2025 to the Petitioners. It is further submitted that although a detailed response to the said Show Cause Notice was filed, no final order has yet been passed thereupon. Despite the absence of any such order, the Petitioners are being coerced to remove machinery

from the subject property, thereby constraining them to invoke the constitutional jurisdiction of this Court. He prayed to allow this petition.

4. We have heard the learned counsel for the parties and perused the record with their assistance.

5. The matter relating to Plot No. CL-7/13, situated within the premises of the protected heritage structure known as *Jennings Private School*, Civil Lines, Karachi, was placed before the Technical Committee (TC) in its meeting held on 19-08-2025, wherein discrepancies in the plot numbers cited in inter-departmental communications were noted. It was further reported that illegal development activity involving the dismantling of parts of the heritage structure had been observed on 08-08-2025, for which a Show-Cause Notice was issued to the petitioners/owners.

6. The representative of SBCA acknowledged that no prior site inspection had been conducted before issuance of the construction permit dated 04-05-2023, indicating a procedural lapse in view of the heritage sensitivity of the site. It was also noted that the Director General, SBCA, had recommended suspension of the said permit pending approval of the development proposal by the Technical Committee under the Sindh Cultural Heritage (Preservation) Act, 1994. The Committee raised serious legal and technical concerns regarding the proposed high-rise construction in proximity to Jennings School, noting potential risks to structural stability, environmental setting, and architectural integrity of the protected site. The absence of a Traffic Impact Assessment and other technical evaluations was also observed. The Committee resolved that before the grant of any development permission, a comprehensive restoration and conservation plan for Jennings School must be prepared and funded by the developer, along with submission of HIA, TIA, EIA, Geotechnical and Structural Stability Reports, Fire & Emergency Access Plan, and establishment of a Restoration & Maintenance Fund. An architect was thereafter engaged to prepare the restoration plan, who proposed removal of unauthorized alterations, restoration of the original façade and windows, and adaptive reuse of the building as a Museum and Library. The Committee appreciated the proposal and directed the submission of a detailed Development and Rehabilitation Plan incorporating environmental, structural, and traffic impact assessments. It was concluded that the earlier permission granted by SBCA was not applicable in the heritage context, and the matter shall be examined based on fresh submissions in accordance with the Sindh Cultural Heritage (Preservation) Act, 1994.

7. In view of the admitted position that a protected heritage structure exists upon the subject property, and in the absence of prior approval from the

competent authority constituted under the Sindh Cultural Heritage (Preservation) Act, 1994, this Court is of the considered view that no development activity can be permitted to continue at the site in exercise of its constitutional jurisdiction under Article 199 of the Constitution.

8. It is a settled principle of law that where a special statute provides a complete mechanism for redressal of grievances and regulation of matters falling within its domain, the same must be resorted to before invoking the constitutional jurisdiction of this Court. Since the Act *ibid* envisages the constitution of a Committee under Section 8 thereof to examine and grant approval in respect of any alteration, renovation, or development concerning a protected heritage property, the Petitioners are required to approach the said forum for appropriate permission, strictly in accordance with law and just upon approach the committee shall take final decision in accordance with law within reasonable time.

9. Accordingly, without touching upon the merits of the case, the instant Petition along with pending application(s), is disposed of with the direction that the Petitioners may avail the remedy available under the Sindh Cultural Heritage (Preservation) Act, 1994 and other applicable laws, whereafter any development activity shall be subject to approval granted by the competent authority in terms of the said Act.

JUDGE

JUDGE

Shahzad Soomro