

ORDER SHEET IN THE HIGH COURT OF SINDH AT KARACHI

Date

Order with Signature of Judge

PRESENT:

**MR. JUSTICE ADNAN-UL-KARIM MEMON, J.
MR. JUSTICE ZULFIQAR ALI SANGI, J.**

C.P.No.D-2436 of 2022

(M/s. Super Long Route Bus Owners Association Vs Federation of Pakistan and others)

C.P.No.D-5129 of 2022

(Anjuman-e-Tajiran & Others Vs Federation of Pakistan and others)

C.P.No.D-8006 of 2022

(Meer Sajjad Ahmed Shahwani Vs Federation of Pakistan and others)

C.P.No.D-5169 of 2023

(Mumtaz Majeed Vs Federation of Pakistan and others)

C.P.No.D-6352 of 2023

(Haji Abdul Raziq Vs Province of Sindh & others)

C.P.No.D-1524 of 2025

(Abdul Qadoos Khan Vs Federation of Pakistan and others)

C.P.No.D-1959 of 2025

(Abid Abdullah Vs Federation of Pakistan & others)

C.P.No.D-2006 of 2025

(Ehsan-ur-Rehman & others Vs Province of Sindh & others)

C.P.No.D-4109 of 2025

(Syed Abdul Qadeem Agha & another Vs Province of Sindh & others)

C.P.No.D-5004 of 2025

(Jaffar Abdul Majeed & others Vs Federation of Pakistan & others)

Date of hearing : 09.02.2026

Date of order : 27.02.2026

Syed Qaim Ali Shah advocate a/w Taimoor Ali Mangrio Advocate for the petitioner in C.P.No.D-2436 of 2022.

Malik Naeem Iqbal, Advocate for the petitioner in C.P.No.D-4109 of 2025.

Mr. Hanif Faisal Alam, advocate a/w Abdul Qadeer Naich advocate for SCORE in C.P.No.D-2505 of 2021, C.P.No.D-2436, 5129, 8006 of 2022 and C.P.No.D-5169 of 2023.

Mr. Muhammad Vawda, advocate for the applicant (CMA No. 21160/2025).

Mr. Abdul Haseeb Qazi, advocate for respondent No.08 in C.P No.D-2436 of 2022 & 5129 of 2022.

Mr. Umair Usman advocate for the petitioner in C.P.No.D-5169 of 2023 a/w Mr. Muhammad Shahmeer Memon and Ms. Areeba Maqool

Mr. Zaeem Haider, advocate for the intervener in C.P.No.D-6352/23

Mr. Muhammad Yasir advocate for petitioner in C.P.No. D-1959 of 2025.

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ORDER

ZULFIQAR ALI SANGI, J: By this common Order, we propose to dispose of the instant petitions along with the listed application, as they involve identical questions of law and fact and arise out of the same set of circumstances.

2. **(C.P. No. D-1524 of 2025).** The facts, succinctly stated, are that the Petitioner is a law-abiding citizen of Pakistan and a resident of Karachi who, along with other inhabitants and daily commuters of Gulshan and the adjoining localities, regularly traverses the chowrangi located near Al-Asif Square. It is the Petitioner's contention that since the month of Ramadan, 2025, the said chowrangi has been unlawfully obstructed through the installation of heavy concrete barriers, thereby impeding the free flow of traffic and causing serious inconvenience to the general public. It is further alleged that Respondents No. 3 to 11 have encroached upon and obstructed the green belt adjoining the chowrangi, resulting in chronic traffic congestion. According to the Petitioner, the encroachment has been undertaken for ulterior commercial purposes, as the area in question has allegedly been leased out to petrol pumps, bus terminals, and truck addas. Owing to the closure of the chowrangi, commuters are constrained to undertake a detour of approximately 5 to 6 kilometers via Jamali Pull, thereby incurring loss of time, fuel, and financial resources, in addition to being exposed to heightened risks of road accidents due to instances of wrong-way driving. It is asserted that despite repeated written representations to the competent authorities, no remedial action has been taken. The Petitioner has, therefore, invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, in public interest and for enforcement of fundamental rights, there being no other adequate or efficacious alternate remedy available.

3. **(C.P. No. D-1959 of 2025).** For purposes of adjudication, it is stated that the Petitioner is a law-abiding citizen of Pakistan and the lawful owner in possession of land measuring 10.00 acres, bearing Survey No. 69, Deh Tore, Tappo Konkar, Taluka Murad Memon,

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District Malir, Karachi (hereinafter referred to as the “Subject Land”), acquired through a registered Gift Deed dated 22.05.1996, duly mutated in the revenue record. The Subject Land abuts the Karachi-Hyderabad Motorway (M-9), and the Green Belt and Right of Way (ROW) are situated immediately in front thereof. It is the Petitioner’s categorical case that no acquisition proceedings were ever initiated in respect of the said land. The Petitioner asserts that in April, 2025, certain individuals claiming to be contractors of the National Highway Authority (NHA), Frontier Works Organization (FWO), and SCORE (a subsidiary of FWO), allegedly commenced encroachment, leveling, and construction activities upon the Green Belt and ROW by deploying heavy machinery, purportedly for commercial development. According to the Petitioner, such actions obstruct access to the Subject Land, contravene zoning and environmental regulations, jeopardize public safety, and compromise both the structural integrity and prospective expansion of the Motorway. It is further averred that despite submission of written complaints to the relevant authorities, no corrective measures were adopted; rather, the Petitioner was allegedly subjected to intimidation for raising objections. The impugned acts are stated to be in violation of the approved Master Plan of the M-9 and in disregard of binding orders passed by this Court in connected matters restraining encroachments upon the Green Belt and ROW. In the absence of any adequate or efficacious alternate remedy, and asserting infringement of fundamental rights and matters of public importance, the Petitioner has invoked the constitutional jurisdiction of this Court.

4. **(C.P. No. D-2006 of 2025).** It is averred that the Petitioners are lawful owners in possession of a leasehold residential/commercial property measuring approximately 04 acres, situated at Deh Tore, Tappo Konkar, Taluka Murad Memon, District Malir, Karachi, acquired through a registered Conveyance Deed dated 25.10.2022. In or about May, 2025, officials and representatives of the National Highway Authority (NHA), along with other respondents, allegedly entered upon the front portion of the Petitioners’ property and demarcated the same, asserting—without furnishing any lawful notification or documentary substantiation—that the land formed part of the Right of Way (ROW) and had been acquired for a highway

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project. On the basis of such assertion, the Respondents commenced construction activities, including the proposed establishment of a petrol pump, thereby allegedly obstructing and threatening to curtail the Petitioners' access to and enjoyment of their property. The Petitioners maintain that no acquisition proceedings were initiated, nor any notice issued or compensation paid, as mandated under the Land Acquisition Act, 1894, read with the National Highway Authority Act, 1991. The Petitioners apprehend that, under the guise of statutory authority, the Respondents intend to dispossess them and create third-party interests to their detriment. It is contended that the impugned actions are arbitrary, unlawful, and violative of Articles 23 and 24 of the Constitution of the Islamic Republic of Pakistan, 1973, leaving the Petitioners with no adequate or efficacious alternate remedy except to invoke the constitutional jurisdiction of this Court.

Reference has been made to C.P. No. D-2874/2024, wherein a learned Division Bench of this Court, vide order dated 06.06.2024, directed the respondents therein to act strictly in accordance with law and restrained them from dispossessing the petitioner without compliance with statutory requirements. It has further been disclosed that in C.P. No. D-4523/2017, the NHA has impugned the cancellation of mutation entries pertaining to the alleged ROW over the M-9 Motorway; however, the said controversy is stated to relate to State land and not privately owned property. The Petitioners seek issuance of appropriate writ(s) under Article 199 of the Constitution, inter alia:

- (i) A declaration that the Petitioners' rights in respect of the subject property, including possession, construction, ingress, egress, and alienation, cannot be curtailed save in accordance with due process of law, and that the impugned acts of the Respondents are illegal and without lawful authority;
- (ii) (ii) A writ of prohibition restraining the Respondents from interfering with the Petitioners' lawful possession and enjoyment of the subject property or from undertaking construction, fencing, excavation, or licensing of third parties therein;
- (iii) A permanent injunction in the above terms; and

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(iv) Any other relief deemed just and proper in the circumstances.

Upon issuance of notice, the Respondents entered appearance and filed their respective objections. Respondent No. 5, through its authorized representative, has raised preliminary objections, contending that the petitions involve disputed questions of fact, particularly as to whether the land claimed by the Petitioners falls within the ROW transferred to NHA. It is asserted that the ROW was transferred pursuant to official orders and that development of ancillary facilities, including petrol pumps, is permissible under the statutory regime governing national highways.

Respondents No. 2 and 3, in their counter-affidavit, have categorically denied any encroachment upon private land and maintain that all construction activities are confined strictly within the ROW of the M-9 Motorway. It is further stated that a site report prepared by the Project Director (M-9) reflects that the Petitioners' land is situated approximately 450 feet away from the motorway's ROW at Kilometer 14+750 (southbound side). The Respondents contend that no fundamental right of the Petitioners has been infringed and that the petitions are not maintainable under Article 199 of the Constitution.

5. **(C.P. No. D-2436 of 2022).** The succinct facts, as pleaded in C.P. No. D-2436 of 2022 and the connected petitions, are that Petitioner No.1 is an association duly registered under the Societies Registration Act, 1860 and, through its members, operates lawful bus terminals/stands situated along the Main Super Highway (Karachi-Hyderabad side of the M-9 Motorway). Petitioners No.2 and 3 are members of Petitioner No.1 and claim to be lawful tenants/lessees in possession of land bearing Survey Nos. 361 and 362-366, Deh Gujro, Tapo Songal, Scheme No. 33, District East, Karachi. The subject properties were allegedly acquired from the Evacuee Trust Property Board through regularization of possession, tenancy arrangements, and a registered lease deed, and the Petitioners assert uninterrupted, peaceful, and continuous possession thereof for several years. It is

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further averred that rent and lease charges have been regularly paid, substantiated by receipts issued by the Evacuee Trust Property Board. Petitioner No.2 claims tenancy rights in respect of Plot No. A-1, Survey No. 363, Deh Gujro, Tapo Songal, Sector 15-B, Scheme No. 33, Karachi, admeasuring 1045 square yards, under a Tenancy Agreement dated 04.07.2012. Petitioner No.3 asserts lawful leasehold rights over Survey No. 361, Sector 13-B, Scheme No. 33, Karachi, admeasuring 2.04 acres, pursuant to a 30-year Lease Agreement dated 18.03.2018 executed with the Evacuee Trust Property Board. Respondent No.8, namely Superhighway Construction Operation and Rehabilitation Engineering (SCORE) (Pvt.) Ltd., is stated to be a wholly owned subsidiary of Frontier Works Organization (Respondent No.5) and to have been granted concessionary rights by the National Highway Authority (Respondent No.4) for the operation and maintenance of the M-9 Motorway under a Concession Agreement dated 10.03.2015. The Petitioners contend that since February 2022, Respondent No.8 has commenced construction activities by erecting boundary walls and other structures upon land allegedly reserved for the service road and green belt within the Right of Way (ROW) of the M-9 Motorway, directly abutting the Petitioners' bus terminals. According to the Petitioners, such construction is illegal, mala fide, and intended for commercial exploitation by leasing public land to private transport operators for the establishment of bus terminals and ancillary facilities. It is further averred that Respondent No.8 issued a letter dated 22.10.2021 to Petitioner No.2 alleging encroachment upon land belonging to the National Highway Authority and directing removal of buses within seven days. The allegation was refuted by Petitioner No.2 through a reply dated 26.10.2021, asserting that buses merely make transient pick-and-drop stops without occupying any portion of the service road or green belt. Thereafter, Respondent No.8 addressed a complaint dated 18.03.2022 to the police authorities, including the SSP East and SHO, P.S. Sachal, culminating in registration of FIR No. 594 of 2022 against members of Petitioner No.1. The Petitioners allege that the said FIR was lodged with mala fide intent to harass and coerce them into surrendering their lawful possession. Reliance is placed upon prior proceedings before this Court, including C.P. No. 2505 of 2021, wherein directions were issued to the Commissioner Karachi and

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Deputy Commissioner (East) to remove encroachments along the Super Highway. It is contended that the impugned construction is in derogation of the said judicial directives. The Petitioners submit that the impugned construction constitutes “encroachment” within the meaning of Rule 2(x) of the National Highways and Strategic Roads (Control) Rules, 1998 and is violative of Section 2(k) of the National Highway Authority Act, 1991, which defines “road” to include land within the Right of Way, inclusive of service roads and green belts. It is asserted that no commercial construction is permissible upon land reserved for public use and that Respondent No.8 lacks lawful authority or prior approval of the National Highway Authority for such development. The Petitioners further contend that the actions of the Respondents infringe Articles 4, 10-A, 18, 23, and 24 of the Constitution of the Islamic Republic of Pakistan, 1973, inasmuch as they amount to deprivation of lawful business and possession without due process of law. Accordingly, the Petitioners have prayed for declarations and directions, inter alia, to declare the letter dated 22.10.2021 illegal and void ab initio; to direct demolition and removal of the alleged illegal structures within the ROW; to restrain interference with their possession and business; to prohibit coercive action including registration of false FIRs; and to grant any other appropriate relief.

Upon issuance of notice, Respondent No.8 filed its comments opposing the petitions. It is contended that no construction has been undertaken beyond the legally demarcated 670-foot-wide Right of Way of the M-9 Motorway, originally determined under the West Pakistan Highways Ordinance, 1959 (as amended), and presently vested in the National Highway Authority under the National Highway Authority Act, 1991. It is further submitted that Section 10(2)(viii) of the said Act expressly empowers the National Highway Authority to license facilities on roads under its control, and that under the Concession Agreement, SCORE has been granted exclusive development rights within the Concession Area corresponding to the ROW of the M-9 Motorway. Respondent No.8 maintains that the ancillary facilities under development—such as petrol pumps, bus terminals, bus bays, and commuter facilitation centers—are integral to safe and efficient

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motorway operations, duly regulated and subject to the approval of the National Highway Authority. It is contended that issues relating to the necessity and desirability of such facilities fall within the realm of policy and executive discretion, not amenable to interference in constitutional jurisdiction absent violation of law or fundamental rights. The Respondent further asserts that the Petitioners have failed to demonstrate infringement of any vested legal right and that disputed questions of fact render the petitions not maintainable.

6. **(C.P. No. D-4109 of 2025).** The Petitioners, described as law-abiding fruit traders conducting business at the New Fruit Market, Super Highway, Karachi, submit that an open drainage channel (Naala) exists outside the premises of the said market. The Naala, being public land vested in the Market Committee Karachi, squarely falls within the definition of “public property” under the Sindh Public Property (Removal of Encroachment) Act, 2010 (hereinafter “the Act, 2010”). It is alleged that Respondent No.6, purportedly acting under the authority of Respondent No.5, namely Superhighway Construction Operation and Rehabilitation Engineering (SCORE), a subsidiary of Frontier Works Organization (FWO), has unlawfully undertaken construction over the said open drain by erecting shops and structures, thereby obstructing the natural flow of drainage water and posing grave public safety hazards. Warning notices were allegedly affixed at the site, threatening forcible removal of property in the vicinity. Despite representations made by the Petitioners and the Karachi (Wholesale) Fresh Fruits Merchants’ and Commission Agents’ Association to the Commissioner Karachi and the Market Committee Karachi, Respondents No.1 to 3 allegedly failed to initiate action. The Petitioners contend that the impugned construction is without lawful authority, constitutes misuse of public land, and reflects administrative inaction and connivance, leaving them with no efficacious alternative remedy except to invoke constitutional jurisdiction. It is asserted that Section 3 of the Act, 2010 mandates removal of encroachments from public property and vests powers in the Government or authorized officers to require removal of illegal occupation. The continued inaction of Respondents No.1 to 3 is characterized as dereliction of statutory duty warranting issuance of a

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writ of mandamus. The purported licensing of public land by Respondent No.5 is alleged to be wholly without lawful authority and liable to be declared void ab initio. The Petitioners maintain that the subject land vests in the Government of Sindh through the Market Committee Karachi and that no authority is competent to grant permission for construction thereon. Although Tribunals exist under Section 12 of the Act, 2010, their jurisdiction is confined to recipients of notices for removal of encroachment; hence, the present relief sought—enforcement of statutory duties—falls within the constitutional jurisdiction of this Court. Appropriate declaratory and injunctive reliefs have accordingly been prayed for.

7. **(C.P. No. D-5004 of 2025).** The Petitioners claim to be lawful owners in possession of residential-cum-commercial and open commercial plots situated in Sector 15-B, Scheme No. 33, Gulzar-e-Hijri, Karachi, abutting the M-9 Motorway (Super Highway). Adjacent thereto lies land designated as a green belt and service road, reserved for public use, environmental protection, and traffic regulation. It is alleged that since April 2025, Respondent No.8, namely Superhighway Construction Operation and Rehabilitation Engineering (SCORE), acting pursuant to a concession granted by the National Highway Authority under the National Highway Authority Act, 1991, has commenced construction upon the land reserved as the Super Highway Green Belt and Service Road directly in front of the Petitioners' properties. The Petitioners contend that such construction is unauthorized, contrary to law, and in violation of repeated judicial directives restraining encroachments upon green belts and service roads. Reference is made to earlier constitutional petitions, including CP No. D-2505 of 2021 and CP No. D-2436 of 2022, wherein this Court directed removal of encroachments and prohibited construction upon land reserved for public purposes. It is asserted that Respondent No.8 has persisted in raising structures in defiance of such orders, thereby obstructing access to the Petitioners' properties and frustrating environmental directives issued by SEPA regarding plantation. The Petitioners submit that the impugned construction amounts to encroachment within the meaning of the National Highways and Strategic Roads (Control) Rules, 1998 and is

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impermissible without prior written approval of the competent authority. Aggrieved thereby and having no alternate efficacious remedy, the Petitioners have invoked Article 199 of the Constitution, seeking directions to cease construction, remove illegal structures, and permanently restrain further encroachment, along with any other just and equitable relief.

8. **(C.P. No. D-5129 of 2022).** Briefly stated, the Petitioners comprise shopkeepers and residents of Al-Asif Square, Scheme-33, Sohrab Goth, Karachi. Petitioner No.1 is the President of a duly registered traders' association bearing Registration No. 0163/2000, representing approximately 200 shopkeepers engaged in wholesale and retail business at Al-Asif Square. Petitioner No.2 represents the residents of nearly 800 residential apartments situated within Al-Asif Square Apartments. Petitioner No.3 is the Chairman of a registered Long Route Bus Owners Association (Registration No. 028/2000), whose members operate intercity transport services under valid route permits issued by the competent authority. According to the approved layout plan of the M-9 Motorway commencing from Sohrab Goth (Zero Point), the land in front of Al-Asif Square is earmarked for a 150-foot-wide service road, a 40-foot-wide green belt, and a 10-foot-wide footpath intended for public use. The Petitioners contend that since February 2022, Respondent No.8, namely Superhighway Construction Operation and Rehabilitation Engineering (Pvt.) Ltd. (SCORE), a subsidiary of Frontier Works Organization (FWO), functioning under the supervision and control of the National Highway Authority (NHA), has unlawfully permitted encroachments over the service road, green belt, and footpath. It is alleged that buses are being illegally parked; temporary sheds and washrooms have been erected; and an unauthorized bus stand is being operated for commercial gain, including the collection of illegal parking charges. The Petitioners submit that such activities have caused severe traffic congestion, obstruction of ingress and egress to their properties, environmental degradation, and substantial interference with their lawful business operations and residential enjoyment. It is further averred that despite complaints lodged before the police and civil administration, and notwithstanding directions issued by NHA as well as a prior restraint

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order passed by this Court in C.P. No. D-2436 of 2022, the impugned activities have persisted unabated. The Petitioners maintain that they are lawful lessees and occupants of their respective premises and are neither encroachers nor trespassers. They assert that their fundamental rights guaranteed under Articles 4, 10-A, 18, 23 and 24 of the Constitution of the Islamic Republic of Pakistan, 1973, have been infringed, and that no efficacious alternate remedy is available to them except to invoke the constitutional jurisdiction of this Court under Article 199 of the Constitution.

Upon issuance of notices, the Respondents entered appearance and filed their respective comments. Respondent No.8 (SCORE) submitted a detailed synopsis contending that no construction has been undertaken beyond the Right of Way (ROW) of the M-9 Motorway and that all ancillary facilities are being developed strictly within the legally acquired ROW measuring 670 feet in width. It is contended that under Sections 2(k) and 2(j) of the National Highway Authority Act, 1991, the term “road” encompasses land within the ROW and all works incidental thereto. Reliance is further placed upon Sections 5 and 8 of the West Pakistan Highways Ordinance, 1959, and Section 10 of the NHA Act, 1991, to assert that the Highway Authority/NHA is empowered to establish facilities necessary for the safe and convenient use of highways. SCORE also relies upon the Concession Agreement executed with NHA, whereby Development Rights have been conferred upon it, including the right to establish ancillary facilities such as bus terminals, petrol pumps, commuter facilitation centres, and related infrastructure within the Concession Area, which forms part of the ROW of the M-9 Motorway. It is contended that the establishment of bus terminals and petrol pumps is necessitated by increasing traffic demand and constitutes a policy decision within the exclusive domain of NHA and its concessionaire. The Respondents deny any encroachment beyond the ROW or upon any green belt outside the legally acquired land and assert that the allegations involve disputed questions of fact not amenable to adjudication in constitutional jurisdiction. Reliance has been placed upon judicial precedents, including *Watan Party v. Federation of Pakistan*, *Dossani Travels v. Pakistan*, and *TCS (Pvt.) Ltd. v. Pakistan Post*, to contend that Courts

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ordinarily refrain from interfering in policy matters unless there is a clear violation of law or infringement of fundamental rights.

The Deputy Commissioner, District East, Karachi, submitted a compliance report pursuant to the order dated 19.12.2022, stating that anti-encroachment operations were conducted on 28th and 29th January 2023, during which temporary cabins and makeshift stalls were removed and FIRs were registered under the Sindh Public Property (Removal of Encroachment) Act, 2010.

The Chief Secretary, Sindh, through a statement placed on record, constituted an Implementation Committee under the Chairmanship of the Commissioner, Karachi Division, to ensure removal of encroachments and to prevent their reoccurrence, assigning defined responsibilities to the Anti-Encroachment Force, Police, Rangers, Traffic Police, and NHA.

The Senior Superintendent of Police (Traffic), Malir, has denied the allegations of harassment and placed on record enforcement data demonstrating action taken against illegal parking and traffic violations in the vicinity.

9. **(C.P. No. D-5169 of 2023).** The brief and material facts are that the Petitioner is the lawful owner and in peaceful, uninterrupted possession of commercial land bearing Survey Nos. 308 (00-24 Ghuntas), 309 (02 Acres 07 Ghuntas), 310 (04 Acres 25 Ghuntas), 311 (03 Acres 22 Ghuntas), 312 (02 Acres 32 Ghuntas), and 313 (02 Acres 33 Ghuntas), collectively measuring 16 Acres 23 Ghuntas (approximately 80,233 square yards), falling under Naiclass No. 105, situated in Deh Thomming, Tappo Gujhro, Scheme-33, Karachi, abutting the Karachi-Hyderabad Motorway (M-9). The property is duly regularized, surveyed, and recorded in the revenue record and is enclosed by a boundary wall. The subject land is adjacent to an area reserved as a green belt and service road forming part of the right of way of the aforesaid Motorway. It is alleged that the Respondents, including the National Highway Authority, Frontier Works Organization and its subsidiary Superhighway Construction Operation

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and Rehabilitation Engineering (Pvt.) Ltd., in collusion with private individuals and land grabbers, have unlawfully encroached upon the green belt and service road by raising unauthorized constructions, carrying out excavation, dumping sand, crush and gravel, and leasing out the reserved land to contractors for commercial exploitation. The Petitioner asserts that such illegal acts have obstructed her lawful right of ingress and egress to the subject property, materially impaired its utility and value, and caused traffic congestion, environmental pollution, and serious safety hazards. Although certain earlier encroachments, including structures operating under the name “Dua Restaurant,” were partially demolished pursuant to complaints and official directives, debris remains scattered at the site and fresh encroachments and dumping activities continue unabated.

It is further averred that repeated complaints, official correspondence, legal notices, and binding orders passed by this Court in analogous matters directing removal of encroachments and restraining illegal construction have been willfully disregarded. The Petitioner alleges mala fide intent, collusion, and threats aimed at forcibly dispossessing her without due process of law, leaving her with no adequate or efficacious alternate remedy except to invoke the constitutional jurisdiction of this Court.

Upon issuance of notices, SCORE (Pvt.) Ltd. filed a consolidated response and synopsis in C.P. Nos. D-2436 of 2022, 2205 of 2021, 5129 of 2022, 8006 of 2022 and 5169 of 2023. The core controversy, as articulated by SCORE, is that the Petitioners, claiming ownership of properties located at different points before the Karachi Toll Plaza, have impugned the construction of ancillary facilities by SCORE on two principal grounds: (i) that such construction is impermissible within the ROW of the M-9 Motorway; and (ii) that it allegedly encroaches upon a green belt. SCORE categorically denies that any construction is being carried out upon a green belt or open drain and asserts that the allegations are unfounded and raise disputed questions of fact, rendering the petitions non-maintainable. It is submitted that the parameters of the ROW are governed by statutory instruments; the length of the Motorway is specified in the Schedule to the National Highway Authority Act, 1991 as 136 kilometers, and the

C.P.No.D-2436 of 2022	C.P.No.D-1524 of 2025
C.P.No.D-5129 of 2022	C.P.No.D-1959 of 2025
C.P.No.D-8006 of 2022	C.P.No.D-2006 of 2025
C.P.No.D-5169 of 2023	C.P.No.D-4109 of 2025
C.P.No.D-6352 of 2023	C.P.No.D-5004 of 2025

width of the ROW—670 feet (220 feet towards Hyderabad and 450 feet towards Karachi)—was determined through Sindh Ordinance No. III of 1973, amending Section 8 of the West Pakistan Highways Ordinance, 1959, and has been reaffirmed by subsequent governmental notifications, including the Mutation Letter dated 22.02.2012 and the Handout dated 01.05.2005 identifying Dehs reserved for the Highway. It is further stated that certain pockets of private land within the ROW have yet to be acquired and shall be acquired in accordance with law as and when required. Due to urban expansion, the first 16 kilometers of the Motorway remain unfenced (commonly referred to as the “M-9 Open Loop”), and the Toll Plaza is situated at kilometer 16 from the zero point. The present petitions pertain to matters within this M-9 Open Loop. In essence, all allegations levelled in the petitions are categorically denied.

10. **(C.P. No. D-6352 of 2023).** The essential facts, as pleaded, are that the Petitioner is the lawful owner of a commercial plot situated in Deh-e-Sungul, Sector 17-B, KDA Scheme-33, Main Super Highway, Karachi. It is asserted that a duly notified green belt exists on both sides of the Main Super Highway from Jamali Bridge to Sohrab Goth for environmental protection and public utility. The grievance of the Petitioner is that, notwithstanding the binding judgment of the Hon’ble Supreme Court of Pakistan dated 25.10.2021 passed in Constitutional Petition No. 9, whereby directions were issued for removal of encroachments from public properties including green belts, roads, footpaths and amenity plots, the Respondents have permitted construction of a commercial petrol pump upon the designated green belt at Main Super Highway, Corner Sparaco Road, opposite Daewoo Bus Terminal, Karachi. It is contended that such construction is in patent violation of the aforesaid judgment, relevant laws governing the Karachi Development Authority, applicable environmental regulations, and the Pakistan Environmental Protection Act. The Petitioner submits that the impugned construction has deprived him and other residents of the lawful use of the green belt for recreational and health-related purposes. Despite repeated representations, no remedial action has been taken, allegedly reflecting deliberate inaction in violation of constitutional obligations under Articles 187(2) and 190 of the

C.P.No.D-2436 of 2022	C.P.No.D-1524 of 2025
C.P.No.D-5129 of 2022	C.P.No.D-1959 of 2025
C.P.No.D-8006 of 2022	C.P.No.D-2006 of 2025
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Constitution. It is further asserted that the impugned acts have endangered public safety, adversely affected environmental health, and infringed fundamental rights under Articles 9 and 26 of the Constitution, leaving no alternate remedy except to invoke the constitutional jurisdiction of this Court.

11. **(C.P. No. D-8006 of 2022).** The Petitioner is the lawful owner of commercial plots C-1/A and C-1, each measuring 1,202.22 square yards, situated in “Pir Gul Hassan Town,” Second Phase, Karachi. The plots were originally allotted to the Petitioner’s deceased father by Messrs Dadabhoy Agencies (Pvt.) Ltd. through registered lease deeds dated 12.02.2004, with possession duly delivered. Following his demise on 12.04.2016, the Petitioner obtained Letters of Administration from this Court on 05.08.2017 and thereafter developed the property, including establishment of a CNG pump, upon obtaining requisite approvals and NOCs. It is alleged that on 12.12.2022, Respondent No.3 unlawfully blocked the main entrance and service road to the Petitioner’s property by dumping construction material and claiming that the service road had been rented out, despite it being the sole lawful access to the plots. On 13.12.2022, Respondent No.3, accompanied by subordinates and police officials, allegedly attempted to occupy the property and extended threats, leading to registration of FIR No. 1901/2022 at Police Station Sachal, Karachi. The Petitioner contends that Respondent No.3 is involved in land-grabbing and extortion activities, including unauthorized sale of the green belt and service road to third parties, thereby obstructing lawful access and diminishing the utility of the property. Despite repeated applications and legal notices, no redress has been afforded, compelling recourse to constitutional jurisdiction.

In response, SCORE (Pvt.) Ltd. raised preliminary objections, asserting that the challenge pertains to ancillary facilities developed within the ROW of the M-9 Motorway and does not involve any green belt or open drain. It is contended that SCORE possesses exclusive development rights under the Concession Agreement with NHA, and that all ancillary facilities, including petrol pumps, bus terminals, bus bays, and commuter facilitation centers, are lawfully planned within

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C.P.No.D-8006 of 2022	C.P.No.D-2006 of 2025
C.P.No.D-5169 of 2023	C.P.No.D-4109 of 2025
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the approved ROW in accordance with projected traffic demand and statutory requirements. Policy decisions regarding such facilities fall within the domain of NHA and its concessionaire, and judicial interference is unwarranted in the absence of demonstrable illegality.

Respondent No.3 denies all allegations of obstruction or unlawful occupation, asserting that the plots lie outside the ROW and that access remains available through a 40-foot service road constructed by SCORE and a planned 30-foot road. It is further contended that the petition has been filed mala fide as a counterblast to FIR No. 1901/2022 and that the Petitioner has not approached this Court with clean hands. Consequently, dismissal of the petition with costs is sought.

12. Learned counsel for the Petitioners, at the outset of their submissions, contended that the controversy in the present batch of petitions pertains to illegal encroachments, unauthorized commercialization of green belts and service roads, obstruction of the Right of Way (ROW), and unlawful deprivation of property and access rights, allegedly in violation of constitutional and statutory safeguards. It is asserted that the petitions are maintainable under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, as the Petitioners' Fundamental Rights guaranteed under Articles 4, 9, 18, 23 and 24 stand infringed. The matters, it is urged, involve issues of public importance, including traffic safety, environmental degradation, and misuse of public land, and no adequate or efficacious alternate remedy is available. The conduct attributed to the Respondents is alleged to constitute an abuse of statutory authority. Reliance has been placed upon the principles enunciated in *Watan Party v. Federation of Pakistan*, wherein the Hon'ble Supreme Court held that constitutional jurisdiction may be invoked to ensure transparency and to prevent arbitrary exercise of executive power.

13. It is further contended that the commercialization of green belts and service roads by the Respondents is patently unlawful. Green belts, service roads and footpaths, it is argued, are earmarked exclusively for public utility, environmental protection and traffic

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C.P.No.D-5129 of 2022	C.P.No.D-1959 of 2025
C.P.No.D-8006 of 2022	C.P.No.D-2006 of 2025
C.P.No.D-5169 of 2023	C.P.No.D-4109 of 2025
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regulation. The establishment of petrol pumps, bus terminals, sheds and other commercial facilities upon such reserved land amounts to encroachment. Even where land forms part of the ROW, its commercial exploitation without strict compliance with statutory requirements and transparency is impermissible. Reference has been made to Section 2(k) of the National Highway Authority Act, 1991, which defines "road" to include land within the ROW intended for public use, and not for private commercial leasing.

14. The Petitioners further rely upon the judgment of the Hon'ble Supreme Court in Constitutional Petition No. 9 of 2019 (judgment dated 25.10.2021), whereby categorical directions were issued for the removal of encroachments from public properties, including green belts and amenity plots. In C.P. Nos. D-1959/2025, D-2006/2025, D-5169/2023 and D-8006/2022, it is submitted that no acquisition proceedings under the Land Acquisition Act, 1894 were ever initiated; no notifications, awards or compensation were issued; and that private land cannot be declared part of the ROW through mere administrative assertion. The demarcation allegedly carried out by officials of the National Highway Authority (NHA) is described as being without lawful authority. It is contended that deprivation of property without due process offends Articles 23 and 24 of the Constitution, and that executive convenience cannot override constitutional guarantees. Learned counsel further submit that the blocking of the chowrangi near Al-Asif Square and installation of concrete barriers have caused grave hardship to the public. The closure of access roads, resulting in detours of 5 to 6 kilometers, is alleged to violate the rights of movement and trade. Obstruction of drainage channels (Naala), it is argued, constitutes a public hazard and an environmental violation. The right of access is characterized as a valuable proprietary and civil right, which cannot be curtailed without lawful authority.

15. It is also submitted that the registration of FIRs against bus operators was coercive in nature and that selective enforcement reflects mala fide intent. Construction activity, it is alleged, has continued despite restraint orders passed in C.P. No. D-2436/2022

C.P.No.D-2436 of 2022	C.P.No.D-1524 of 2025
C.P.No.D-5129 of 2022	C.P.No.D-1959 of 2025
C.P.No.D-8006 of 2022	C.P.No.D-2006 of 2025
C.P.No.D-5169 of 2023	C.P.No.D-4109 of 2025
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and C.P. No. D-2505/2021. Counsel argue that statutory discretion must be exercised fairly, transparently and strictly in the public interest, and not for commercial profiteering. The construction upon green belts is stated to be in violation of environmental laws and directives of the Sindh Environmental Protection Agency (SEPA). The installation of petrol pumps adjacent to residential areas is said to pose serious safety hazards, while obstruction of open drains may lead to flooding and public health emergencies. It is contended that environmental rights form an integral part of the right to life under Article 9 of the Constitution. The mere assertion of disputed facts, it is argued, does not oust constitutional jurisdiction where the official record can determine the limits of the ROW, and where alleged illegality is apparent from admitted documents directly impacting Fundamental Rights.

16. Conversely, learned counsel appearing for the Respondents, including NHA, FWO, SCORE and ETC, submit that the core dispute pertains to demarcation of the ROW. It is contended that the Petitioners' land is situated outside the ROW, as reflected in the Project Director's site report indicating a distance of 450 feet at KM 14+750. Such controversies, involving disputed questions of fact, cannot be adjudicated in exercise of constitutional jurisdiction under Article 199. Reliance is placed upon *TCS (Pvt.) Ltd. v. Pakistan Post*, wherein it was held that disputed factual matters are ordinarily not amenable to writ jurisdiction. It is further argued that under Section 10(2)(viii) of the National Highway Authority Act, 1991, NHA is empowered to license facilities on national highways, and that Section 2(k) encompasses the ROW and incidental works. The 670-foot ROW, it is contended, was lawfully determined under Sindh Ordinance No. III of 1973. The Concession Agreement dated 10.03.2015 validly confers development rights upon SCORE within the designated Concession Area. Establishment of petrol pumps, bus bays and commuter facilities is described as a policy decision falling within the executive domain. Courts, it is argued, ought not to substitute their wisdom for that of the executive unless clear illegality or mala fides are demonstrated. In this regard, reliance is again placed upon *Watan*

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Party v. Federation of Pakistan and Dossani Travels v. Pakistan to emphasize the limited scope of judicial review in policy matters.

17. The Respondents categorically deny any construction upon open drains, any encroachment beyond legally acquired ROW, or obstruction of lawful access. It is submitted that the first 16 kilometers (M-9 Open Loop) remain unfenced due to urban expansion, and that certain private pockets within the ROW are yet to be acquired and shall be acquired as and when required in accordance with law. In C.P. No. D-8006/2022, it is contended that the petition is a counterblast to FIR No. 1901/2022 and that the Petitioners themselves have been beneficiaries of commercial exploitation. It is emphasized that a petitioner invoking writ jurisdiction must approach the Court with clean hands. With respect to anti-encroachment operations, reference is made to the Deputy Commissioner's report dated 28–29 January 2023, formation of an Implementation Committee by the Chief Secretary, and enforcement actions undertaken by the SSP Traffic, to demonstrate that the State machinery is actively performing its functions and that no writ of mandamus is warranted.

18. The learned Law Officer, assisting the Court, made balanced submissions. It was acknowledged that public land must be protected and that green belts, service roads and drainage channels constitute public property. Under the Sindh Public Property (Removal of Encroachment) Act, 2010, authorities are under a statutory obligation to remove encroachments, and constitutional jurisdiction may be invoked to compel performance of such duties where inaction is established. At the same time, it was conceded that private land cannot be taken without lawful acquisition, and that if any portion of privately owned land is required for highway expansion, the procedure prescribed under the Land Acquisition Act, 1894 must be strictly followed.

19. It was suggested that a joint demarcation be conducted by the revenue authorities, NHA and the Survey Department to conclusively determine the limits of the ROW. If the construction falls

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within the duly notified ROW, no interference may be warranted; however, if it extends beyond the ROW or encroaches upon public green belts reserved for environmental purposes, corrective action must ensue in accordance with law. The learned Law Officer further submitted that while Courts ordinarily refrain from interfering in policy matters, constitutional review is justified where policy is implemented in violation of statutory provisions or subsisting judicial orders. It was proposed that status quo be maintained pending demarcation; that any illegal encroachments, if found, be removed strictly in accordance with law; and that no third-party rights be created until final adjudication of the controversy.

20. We have heard the learned counsel appearing on behalf of the petitioners and the respondents, as well as the learned law officers, at considerable length. With their valuable assistance, we have carefully examined and perused the material available on the record.

21. At the outset, the Respondents have objected to the maintainability of these petitions on the ground of disputed questions of fact and availability of alternate remedies. It is settled law that the constitutional jurisdiction under Article 199 is discretionary and equitable in nature. However, where actions of public functionaries are alleged to be without lawful authority, coram non judice, or in violation of fundamental rights, the High Court is not precluded from exercising its writ jurisdiction merely because some factual controversy exists. The principle is that where foundational facts are admitted or determinable on the basis of official record, and the challenge pertains to jurisdictional defect, mala fide exercise of power, or breach of statutory mandate, the writ is maintainable. Furthermore, where the grievance relates to encroachment upon public property, green belts, service roads, or public drains matters affecting the community at large the petitions assume the character of public interest litigation. In such cases, this Court is duty-bound to ensure that public authorities act strictly in accordance with law and do not abdicate statutory responsibilities. Likewise, where deprivation of property is alleged without acquisition proceedings under the Land

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Acquisition Act, 1894, read with the National Highway Authority Act, 1991 (“NHA Act”), the matter involves enforcement of Articles 23 and 24 of the Constitution, and constitutional jurisdiction is clearly attracted. Accordingly, the preliminary objections regarding maintainability are overruled, subject to determination of disputed title questions, if any, strictly in accordance with law.

22. The controversy revolves around the legal character of the ROW of the M-9 Motorway and the authority of the National Highway Authority (NHA) and its concessionaire, Superhighway Construction Operation and Rehabilitation Engineering (Pvt.) Ltd. (SCORE), to establish ancillary facilities. Under Section 2(k) of the NHA Act, 1991, “road” includes land within the Right of Way and all works incidental thereto. Section 10(2)(viii) empowers the NHA to provide, maintain and operate ancillary facilities and to grant licenses in respect thereof. The width of the ROW (670 feet) is asserted to have been determined under the West Pakistan Highways Ordinance, 1959, as amended. There can be no cavil that NHA, as a statutory authority, is competent to develop ancillary facilities such as bus bays, petrol pumps, and commuter facilitation centers within land lawfully vested in it, provided: (i) The land forms part of the legally acquired and notified ROW; (ii) No private property is utilized without acquisition and compensation; (iii) Environmental and zoning regulations are complied with and (vi) The development does not defeat the essential character of green belts or service roads reserved for public use. However, statutory authority cannot be exercised in excess of jurisdiction. If construction is undertaken beyond the demarcated ROW, or upon land vested in another statutory body (such as Market Committee land or amenity plots), or in contravention of binding judicial orders, such action would be ultra vires and liable to be struck down. Policy discretion, though ordinarily immune from judicial review, is subject to the well-recognized limitations of legality, rationality and procedural propriety. Courts do not sit in appeal over policy wisdom, but they are guardians against illegality and arbitrariness.

23. In C.P. Nos. D-1959 of 2025, D-2006 of 2025, D-5169 of 2023 and D-8006 of 2022, the Petitioners assert ownership of private

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land and allege interference with ingress and egress or threat of dispossession without acquisition. Articles 23 and 24 of the Constitution guarantee the right to acquire, hold and dispose of property, and prohibit compulsory acquisition save in accordance with law and upon payment of compensation. It is a cardinal principle that even the State cannot dispossess a person from immovable property except through due process of law. Where land is claimed to form part of ROW but remains privately owned and not acquired, the authority must initiate acquisition proceedings before utilizing the same. If, as contended by the Respondents, the Petitioners' lands are situated outside the ROW (e.g., 450 feet away at Kilometer 14+750), such position must be established through an authenticated demarcation conducted by revenue authorities in presence of all stakeholders. Accordingly, in matters involving private title, we direct that:

- A joint demarcation be carried out by the Mukhtiarkar/Survey Superintendent in presence of NHA, SCORE and the concerned Petitioners.
- If any portion of privately owned land is found to fall within ROW but not yet acquired, NHA shall initiate acquisition proceedings strictly in accordance with law.
- Until such determination, no coercive action or creation of third-party interests shall be undertaken.

24. Several petitions (C.P. Nos. D-1524/2025, D-5004/2025, D-5129/2022, D-6352/2023) relate to alleged encroachments upon green belts and service roads. Green belts are not mere surplus land; they are reserved for environmental protection, traffic safety and urban planning. Their conversion into commercial use without lawful reclassification violates planning statutes and environmental principles.

Public authorities are trustees of public property. Under the public trust doctrine, land reserved for public use cannot be diverted for commercial exploitation except strictly in accordance with law and public interest. Insofar as obstruction of chowrangi, illegal barriers,

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and traffic hazards are concerned (C.P. D-1524/2025), traffic regulation must conform to lawful authority and necessity. Arbitrary blockage of public roads, if not backed by lawful notification, infringes the right to movement under Article 15 and the right to life under Article 9, which encompasses safe and unimpeded access. We therefore direct:

- Any construction upon green belts or service roads outside the legally notified ROW shall be removed forthwith by the concerned Deputy Commissioner under the Sindh Public Property (Removal of Encroachment) Act, 2010.
- If ancillary facilities are within ROW, NHA shall place on record approved layout plans and environmental clearances.
- SEPA shall verify compliance with environmental requirements, particularly where plantation obligations exist.

25. The construction over an open public drain (Naala) outside New Fruit Market (C.P. D-4109/2025) raises grave public safety concerns. Section 3 of the Sindh Public Property (Removal of Encroachment) Act, 2010 mandates removal of encroachments from public property. Public drains are essential civic infrastructure and cannot be lawfully built over by any authority unless diverted or covered pursuant to sanctioned engineering design and statutory approval. Failure of public authorities to act upon acknowledged encroachment constitutes dereliction of statutory duty, justifying issuance of mandamus. Accordingly, the Commissioner Karachi shall ensure immediate inspection and, if construction is found obstructing drainage flow without lawful sanction, removal thereof in accordance with law within thirty (30) days.

26. In petitions alleging harassment through FIRs or coercive tactics, we reiterate that criminal law cannot be used as an instrument of intimidation in civil or regulatory disputes. However, if cognizable

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offences are made out, investigation shall proceed independently, subject to safeguards of due process under Article 10-A.

27. In view of the foregoing discussion, these petitions are disposed of with the following consolidated directions:

1. Joint demarcation of ROW vis-à-vis private lands in dispute shall be conducted within 60 days, as discussed in paragraph No.23.
2. If private land is required for highway purposes, acquisition proceedings under the Land Acquisition Act, 1894, shall be initiated before utilization.
3. No construction shall be carried out outside the legally notified ROW. Any encroachment upon public green belts or service roads shall be removed forthwith.
4. The Commissioner Karachi shall ensure restoration of drainage infrastructure and removal of unauthorized structures, as per law.
5. SEPA shall verify environmental approvals for ancillary facilities.
6. Until demarcation, parties shall maintain status quo regarding possession of privately owned land.
7. The Implementation Committee already constituted by the Chief Secretary Sindh shall monitor compliance and submit quarterly reports to the Registrar of this Court.

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28. Needless to observe, NHA and its concessionaire are empowered to develop ancillary facilities within lawfully vested ROW; however, such authority is circumscribed by constitutional guarantees, statutory mandates, environmental safeguards, and binding judicial precedents.

29. All the above petitions along with pending applications stand *disposed of* in the above terms.

JUDGE

JUDGE