IN THE HIGH COURT OF SINDH AT KARACHI

Present
Mr. Justice Yousuf Ali Sayeed
Mr. Justice Abdul Mobeen Lakho

C.P. No.S-3766 of 2023

[Mrs. Atia Ajaz ……v…… Province of Sindh & others]

Dates of Hearing	:	15.10.2025, 06.11.2025 & 26.11.2025
Petitioner through	:	Mr. Syed Sultan Ahmed, Advocate.
Respondents through	:	Mr. Muhammad Akram, Advocate for Respondent No.11. Mr. Khursheed Javed, Nazia Siddiqui & Muhammad Nawaz, Advocates for KDA. Mr. Dhani Bux Lashari, Advocate for SBCA. M/s. Anwar Khalid, Abdul Sami, Agha Mustafa Durrani, Advocates for Sindh Master Plan Authority. Mr. Abdul Jalil Zubedi, AAG.

O R D E R

Abdul Mobeen Lakho, J:- Through the present memorandum of petition, the petitioner seeks a declaration that the official respondents have unlawfully converted an amenity plot bearing No. ST-41, which was reserved for use as a car shelter. The petitioner further seeks a declaration that the allotment of Plot No. 521/1 by the official respondents is likewise illegal (**"subject plots"**).

2. The material facts placed on record by the petitioner are that she is a resident of Sector 11-A, North Karachi Township, Central District, Karachi, and is aggrieved by certain acts and omissions on the part of the officials of the Karachi Development Authority (KDA) as well as the Sindh Building Control Authority (SBCA). According to the petitioner, Plot No. ST-41 is an amenity plot reserved for use as a

car shelter under the applicable master plan; however, the same has been unlawfully allotted to the private respondents and is presently under illegal construction. It is further asserted that an open area has also been allotted to the private respondents by the official respondents, which has been carved out and designated as Plot No. 521/1. The petitioner contends that, under the master plan, no such plot ever existed, and that the private respondents are raising illegal construction thereon as well. Upon noticing these alleged illegalities, the petitioner addressed several representations to the official respondents; however, no action was taken. Consequently, the petitioner has approached this Court seeking appropriate relief.

3. Notices/summons were issued to the Respondents and comments were filed by Respondents/SBCA, KDA as well as Respondent No.11 respectively. Per SBCA, the building plans of the subject plots were approved by the SBCA, however, allotment of the subject plots is within the precinct of KDA.

4. KDA through their respective comments introduced on record that a plot No.1376, Sector 7-A North Karachi Township, Karachi owned by the Respondent No.11 was affected in the Katchiabad, and in lieu of the said plot, the subject plot bearing No.521/1, Sector 11A, North Karachi Township was allotted to the Respondent No.11 in accordance with law, after the drawing No. 1447 dated 15.11.2019, issued by the Sindh Master Plan Authority. So far as the second subject Plot bearing No.ST-41 is reserved for car shelter according to the masterplan and no violation has been committed hitherto by the KDA.

5. Respondent No.11 being the main contesting Respondent in this controversy also filed his comments and set-forth therein that he is not only lawful owner of the subject plot bearing Plot No. 521/1 but is raising construction thereon according to approved building plan issued by the SBCA. It is further asserted that the subject plot was allotted to him by the KDA on 03.03.2022, possession order dated 14.03.2022 was also issued in this regard by the KDA, thereafter, lease dated 31.01.2023 was also executed and having obtained such documents in accordance with law, the Respondent No.11 obtained construction approval by the SBCA which was also granted vide building plan dated 27.02.2024, hence no illegally committed either by the Respondent No.11 or by the official respondents in allotting the subject plot and according permission to raise construction.

6. Learned counsel for the petitioner premised his case on the contention that two distinct plots are involved in the present lis. According to him, Plot No. ST-41 is an amenity plot earmarked for use as a car shelter and, therefore, is not legally convertible to residential use. Notwithstanding this restriction, the Sindh Building Control Authority (SBCA) granted building approval, pursuant to which construction activity is presently being carried out on the said plot. This fact, he submitted, stood corroborated by the Nazir's report dated 27.08.2025, which was subsequently removed by the SBCA. Learned counsel further argued that Plot No. 521/1 never existed originally and, in fact, constituted an open space/lane. He contended that the official respondents unlawfully created this plot in the year 2019 and illegally allotted the same to respondent No. 11.

During the course of arguments, learned counsel placed reliance upon Regulation 18-4.1 of the Karachi Building and Town Planning Regulations, 2002 ("KBTR"), which expressly stipulates that an amenity plot reserved for a specific purpose cannot be converted or utilized for any other purpose. He asserted that despite the fact that Plot No. ST-41, being an amenity plot, is being used for residential purposes, no action was taken by the official respondents, including the SBCA, even after these violations were duly brought to their notice. It was in these circumstances that the petitioner was constrained to approach this Court for the relief sought in the memo of petition. In support of his submissions, learned counsel relied upon the following precedents:-

- *Kashmir Free Blood Bank and Welfare Center v. Mirpur Development Authority*[1]
- *Shamim Akhtar v. Muhammad Rafiq*[2]
- *Ardeshir Cowasjee v. Karachi Development Authority*[3]
- *Abdul Haleem v. Province of Sindh*[4]
- *Jam v. Taluka Nazim, Taluka Municipal Administration, Larkana*[5]

7. Mr. Khursheed Javed, Advocate, articulated the stance of the Karachi Development Authority (KDA). In brief, his submissions were that, according to KDA records, Plot No. ST-41 continues to remain an amenity plot and has not been converted in any manner. He further submitted that the grant of construction approval for the said plot falls within the exclusive domain of the Sindh Building Control Authority (SBCA), and not the KDA. With respect to Plot No. 521/1, learned counsel contended that the same was duly allotted by the KDA, in the alternative, to respondent No. 11 and that the said plot is

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[1] *2012 CLC 928*
[2] *2021 YLR 405*
[3] *2007 CLC 668*
[4] *2021 MLD 1442*
[5] *2010 CLC 860*

purely residential in nature. He further argued that the alleged lapses attributed to the KDA by the petitioner are frivolous and devoid of merit and, therefore, do not warrant consideration by this Court.

8. Learned counsel for respondent No. 11, during the course of his arguments, submitted that the petitioner is not an aggrieved person, as she is neither a member of the Masjid Committee in whose vicinity the subject plot is situated nor is she directly affected in any manner. On this ground alone, he contended, the present petition is liable to be dismissed. He further argued that Plot No. 521/1 was lawfully allotted to respondent No. 11 by the Karachi Development Authority (KDA) on 03.03.2022, pursuant to which a possession order dated 14.03.2022 was duly issued. Thereafter, a lease deed dated 31.01.2023 was executed in favor of respondent No. 11. Having acquired valid title documents in accordance with law, respondent No. 11 subsequently obtained construction approval from the Sindh Building Control Authority (SBCA), which was granted through a building plan approved on 27.02.2024. Learned counsel maintained that no illegality was committed either by respondent No. 11 or by the official respondents in the allotment of the subject plot or in granting permission to raise construction thereon. In support of his submissions, learned counsel placed reliance upon the following precedents:-

- *Dr. Imran Khattak v. Ms. Sofia Waqar Khattak*[6]
- *Javed Ibrahim Paracha v. Federation of Pakistan*[7]

9. We have heard the respective learned counsel and reviewed the record available before the Court. The determination requires in

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[6] *2014 SCMR 122*
[7] *PLD 2004 S.C. 482*

this edict on two plots bearing Plot No.ST-41 and Plot No.521/1 which per petitioner's counsel are amenities in nature and cannot be converted from amenity to residential. A perusal of record, reveals that vide Order dated 27.05.2025, SBCA was directed to remove an illegal construction from Plot No.ST-41 which compliance report was submitted by the SBCA and it is considered illustrate to reproduce the same hereunder:-

> *"…In compliance order dated 27.05.2025, it is respectfully submitted on behalf of respondent No.3 SBCA as under:-*
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> *1.That the authority issued ejectment notice dated 08.05.2025 to the owner/occupants to vacate the premises which was constructed and occupied illegally/against the approved building plan.*
>
> *2.That in compliance of the said notice issued in pursuance of the order of this Honourable Court, **the owner/occupants vacated the premises, removed the violation as specified by the staff of the Authority, and its car shelter has been restored. The owner /occupant has also submitted intimation and informed to check the premises having been restored, which has also been verified by the concerned field staff.***
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> *3. That in view of the above submission, it is respectfully submitted that the petition has served its purpose which may be disposed of accordingly."*

10. It is gleaned from appraisal of the foregoing that the order dated 27.05.2025 was complied with by the SBCA, the construction raised on the amenity plot has already been removed and the nature of the plot No. ST-41 being car shelter restored which fact has also been introduced and confirmed by the Nazir through his 27.08.2025. It is deliberated view of the Court that a plot which is amenity in nature ought not be converted from amenity to residential. During the course of arguments, learned counsel for the petitioner also

referred to Regulation No.18-4.1 of KBTR which stipulates that no amenity plot reserved for the specific purpose shall be converted or utilized for any other purpose, therefore, the issue raised in this petition to the extent of Plot No.ST-41 has been served.

11. Reverting to the issue with regards allotment of Plot No.521/1 to the Respondent No.11 by the KDA. Per learned counsel, the subject plot No. 521/1 was illegally carved out by the KDA. However, that contention is not borne out by reference to any official record/plan.

12. The petitioner before us is a feminine gender, but during the course of hearing, the nucleus of learned counsel for the petitioner was that the Masjid Committee where the Plot No. 521/1 situates is aggrieved. It is noted that the Masjid committee/Masjid Umar is not a party in the memorandum of petition, therefore, learned counsel has failed to demonstrate as to how the petitioner was personally aggrieved by the allegations pleaded[8].

13. In view hereof, we are constrained to observe that the petitioner/counsel has failed to set forth any case to merit invocation of the discretionary[9] writ jurisdiction of this Court, hence, this petition is hereby dismissed alongwith pending applications.

JUDGE

JUDGE

Aadil Arab

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[8] *2001 YLR 916; PLD 1964 (WP) Lahore 138, Raja Muhammad Nadeem vs. The State reported as PLD 2020 Supreme Court 282; SECP vs. East West Insurance Company reported as 2019 SCMR 532.*

[9] *Syed Iqbal Hussain Shah Gillani vs. PBC & Others reported as 2021 SCMR 425; Muhammad Fiaz Khan vs. Ajmer Khan & Another reported as 2010 SCMR 105.*