

**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-4923 of 2025

[Ayesha Asif V. Pakistan Defence Officers Housing Authority and another]

C.P.No.D-3697 of 2025

[Mrs. Tasneem Nazli Ashir V. Pakistan Defence Officer Housing Authority and others]

Date of hearing : 23.02.2026

Date of order : 23.02.2026

Mr. Awais Z. Sarki, Advocate for petitioner in C.P. No.D-4923 of 2025.
Mr. Ahmed Masood, Advocate for petitioner in C.P. No.D-3697 of 2025.
Mr. Khalid Mehmood Siddiqui, Advocate for Respondents.
Ms. Wajeeha Mehdi, DAG *along with* Mr. Usman Ahmed, Advocate for CBC.

ORDER

ZULFIQAR ALI SANGI, J: By this consolidated Order, this Court proceeds to decide Constitutional Petition No. 4923 of 2025 and Constitutional Petition No. 3697 of 2025, as both petitions arise out of the same immovable property, namely Plot No. 67, 1st Street, Phase VI, DHA, Karachi ("***the Subject Property***"), and involve common and intertwined questions of law and fact. The lis in both matters pertains to the legality, propriety, and validity of the acts and omissions of the Respondents, particularly the Pakistan Defence Officers Housing Authority (PDOHA), in relation to the bifurcation of the Subject Property and the construction raised thereupon. It is a settled principle that where petitions stem from an identical factual matrix and require interpretation of the same regulatory framework, they ought to be heard and decided together so as to ensure judicial consistency, avoid multiplicity of proceedings, and obviate the risk of conflicting findings.

2. In C.P. No. D-4923 of 2025, the Petitioner claims to be the lawful owner of Plot No. 67/II, having acquired title through a documented chain of allotment, transfer, mutation, and registration of A-Lease. The record reflects that building plans were duly approved by the competent authority, namely the Cantonment Board Clifton, and

that a revised plan was subsequently sanctioned. The Petitioner asserts that notwithstanding subsisting approvals, officials of DHA unlawfully interfered with the construction and halted the same on the pretext of non-issuance of certain stage-wise NOCs. It is further alleged that an impugned notice was issued without proper service and that the Respondent Authority, despite having confirmed through inspection dated 11.06.2025 that construction conformed to the approved plan, withheld issuance of foundation and plinth NOCs solely on account of pendency of C.P. No. D-3697 of 2025, though no injunctive order had been passed therein. Such conduct is alleged to be arbitrary, discriminatory, and violative of the Petitioner's constitutional guarantees.

3. In C.P. No. D-3697 of 2025, the adjoining owner challenges the bifurcation of the original 600 square yard plot into two plots of 300 square yards each, contending that the same is impermissible under the DHA Karachi Town Planning and Building Control Regulations, 2020. It is further alleged that the approved building plan violates mandatory Compulsory Open Space (COS) requirements and infringes upon the Petitioner's easementary rights of air, light, and privacy. The grievance essentially questions the legality of administrative approvals granted by DHA and seeks annulment thereof.

4. Learned counsel in C.P. No. D-4923 of 2025 contended that once plans were duly sanctioned and construction confirmed to be in accordance therewith, DHA was estopped from adopting a contradictory stance. Reliance was placed upon Articles 4, 18, and 24 of the Constitution, emphasizing that statutory authorities must act fairly, reasonably, and in accordance with law. The doctrine of legitimate expectation was invoked to contend that the grant of approvals created a legal expectation that lawful construction would not be obstructed arbitrarily.

5. Conversely, learned counsel in C.P. No. D-3697 of 2025 argued that Regulation 3.5.3 prohibits bifurcation of 600 square yard plots and that the impugned approvals are void ab initio for being contrary to the governing regulations and Master Plan. It was further submitted that violation of COS requirements constitutes infringement of valuable civil and easementary rights, amenable to judicial review under Article 199 of the Constitution.

6. On behalf of DHA, preliminary objections as to maintainability were raised in both petitions, asserting mala fide intent and private dispute. It was contended that Regulation 3.5.2 expressly permits bifurcation of 600 square yard plots into two plots of approximately 300 square yards each, whereas Regulation 3.5.3 applies exclusively to 1000 square yard plots. It was further argued that stage-wise NOCs for foundation and plinth levels are mandatory preconditions under the approved plan and that the Petitioner in C.P. No. D-4923 of 2025 commenced construction without fulfilling such requirements.

7. We have heard learned counsel for the parties at length and have carefully examined the record.

8. The principal issue revolves around interpretation of Regulations 3.5.2 and 3.5.3. It is a cardinal principle of statutory interpretation that where the language of a statute or regulation is plain and unambiguous, effect must be given to its ordinary meaning. Courts cannot read into a provision a prohibition which the rule-making authority has not expressly incorporated. A regulatory restriction upon proprietary rights must be explicit and cannot be inferred by implication.

9. A plain, literal and contextual reading of Regulation 3.5.2 unmistakably demonstrates that bifurcation of a plot measuring 600 square yards into two independent plots of approximately 300 square yards each is expressly contemplated and permitted, subject, of course, to strict adherence to the prescribed planning controls, zoning restrictions, building lines, and other regulatory parameters. Regulation 3.5.3, by its clear and unambiguous language, is confined in its application to plots measuring 1000 square yards and above, and therefore cannot, by any interpretative process, be extended to govern or restrict plots of a smaller dimension. The contention that Regulation 3.5.2 is applicable exclusively to Phase VI is devoid of substance and unsupported by any textual or contextual indication within the regulatory framework. In the absence of an express prohibitory clause or a specific statutory embargo restraining bifurcation of 600 square yard plots, no implied restriction can be read into the Regulation. It is a settled principle of law that where the statute or delegated legislation is clear and unambiguous, the Court is not at liberty to import limitations not expressly provided therein.

10. As regards the allegation of encroachment upon Compulsory Open Space under Regulation 4.1, no cogent or technical material has been placed on record demonstrating deviation from the approved plan. The inspection letter dated 11.06.2025 confirms compliance with sanctioned drawings. In exercise of constitutional jurisdiction under Article 199, this Court does not sit as an appellate authority over technical measurements unless patent illegality or jurisdictional defect is established. Disputed questions concerning easementary rights and factual encroachments are more appropriately adjudicated before a competent civil forum.

11. The more substantial issue arises in C.P. No. D-4923 of 2025. It is an established principle that mere pendency of litigation does not operate as an injunction. Administrative authorities cannot suspend or withhold statutory rights in absence of a restraining order by a competent court. Article 4 of the Constitution guarantees due process; Article 18 protects lawful economic activity; and Article 24 safeguards property rights. Once plans were sanctioned and construction verified as compliant, DHA was obligated to act fairly and consistently.

12. However, it is equally settled that regulatory compliance is mandatory and not directory. Where stage-wise NOCs are stipulated as conditions precedent to construction, non-compliance entitles the authority to insist upon fulfillment thereof. Ownership of property does not dispense with adherence to regulatory controls. Administrative discretion, nevertheless, must be exercised reasonably, proportionately, and not arbitrarily.

13. Allegations of mala fide require specific pleadings and strict proof. Bald assertions without substantive material cannot invalidate administrative action. No convincing evidence has been produced demonstrating colourable exercise of authority or personal bias on part of DHA.

14. In view of the foregoing analysis, C.P. No. D-3697 of 2025 is dismissed, as no illegality in bifurcation or approval of building plan has been established. C.P. No. D-4923 of 2025 is partly allowed to the extent that DHA shall not withhold issuance of requisite NOCs nor halt construction solely on account of pendency of any petition in absence of a specific restraining order by a competent Court. The

Petitioner shall, however, strictly comply with all regulatory requirements, including obtaining stage-wise NOCs prior to further construction. Upon submission of complete documentation, DHA shall process and decide the same within fifteen (15) days in accordance with law.

15. It is clarified that any grievance relating to alleged infringement of easementary rights may be agitated before the competent civil forum.

16. Both petitions, along with all pending applications, stand *disposed of* in the above terms.

JUDGE

JUDGE