

**IN THE HIGH COURT OF SINDH, KARACHI**

**Before:**

**Justice Muhammad Saleem Jessar**

**Justice Nisar Ahmed Bhanbhro**

**Const. Petition No. D-4751 of 2025**

*(Muhammad Ibrahim Nadem and 3 others v. Federation of Pakistan and 03 others)*

Petitioners : *Muhammad Ibrahim Nadem and 3 others*  
through Mirza Abdul Moiz Baig,  
Advocate

Respondents : Through Ms. Shazia Hanjirah, Deputy  
Attorney General for Pakistan and Mr.  
Moazam Ali, Special Prosecutor, NAB

**Date of hearing and order: 17.03.2026**

**ORDER**

**NISAR AHMED BHANBHRO, J.** Through this petition, petitioners have claimed following relief(s):

*“i. Declare that Respondent No. 2's restriction on the Petitioner's rights with respect to the Subject Property are unlawful and mala fide,*

*ii. Declare that the Impugned Notice issued by Respondent No. 4 is unlawful, mala fide, and inconsistent with the provisions of the Ordinance;*

*iii. Grant such other relief as this Court may deem just, equitable, and proper in the circumstances;*

*iv. Grant the costs of this Petition.”*

2. It is contended by learned counsel for the petitioners that the petitioners are legal heirs of Late Dr. Nadeem Akber, who owned property i.e. House No.SU-261, Sector G, Askari V, Malir Cantonment,

Karachi (**subject property**); that Dr Nadeem Akber passed away in the month of July 2025 leaving behind petitioners as his legal heirs. He contended that on demise of Dr Nadeem Akber his legal heirs became the owners of subject property. He contended that through notice dated 21.04.2025 (**impugned notice**), National Accountability Bureau Karachi (NAB) required Dr Nadeem Akber, father of the Petitioners to surrender the subject property in its favor. He contended that father of the Petitioners was neither an accused in any reference nor facing any inquiry or investigation, therefore, impugned action on the part of NAB was an arbitrary and colorful exercise of the powers. He next contended that one accused Ashique Hussain Kaleri surrendered the subject property in favor of NAB, since the said accused was not the owner, therefore, any surrender deed in favor of NAB in respect of subject property was illegal and without any sanction of law. He contended that the rights of the petitioners are protected under Articles 23 and 24 of the Constitution of the Islamic Republic of Pakistan, 1973, as such, through the impugned notice NAB has encroached upon the fundamental rights. He prayed to declare the impugned notice as illegal and liable to be set aside. He prayed for allowing the petition.

3. Learned Deputy Attorney General for Pakistan, assisted by learned Special Prosecutor, NAB, contended that the subject property was acquired by one Accused involved in the embezzlement of land acquisition funds of M-5 Sukkur - Hyderabad Motorway. She contended that during investigation one Ashiq Hussain Kaleri was arrested. The accused admitted his guilt and stated that he purchased the properties including subject property through proceeds of crime. She contended that NAB on completion of investigation filed reference No 01 of 2023 (Re *The State Vs. Muhammad Adnan Rasheed, D.C Matiari and others*) before Learned Accountability Court II Hyderabad (**Trial Court**); that NAB filed an application under section 12 of the National Accountability Ordinance, 1999 (**NAO, 1999**) for freezing the assets of accused Ashique Hussain before Trial Court, which was allowed vide order dated 28.04.2023. She further contended that during pendency of reference the accused Ashiq Hussain entered into a plea of bargain on surrender of the properties including subject property, which was accepted by NAB and approved by the Trial Court. The father of petitioners did not challenge both the orders

passed by the Trial Court, which attained finality, and the impugned notice was issued in compliance to the orders passed by Trial Court. She contended that the orders passed by Trial Court were appeal-able, therefore, this petition is misconceived and not maintainable. She prayed to dismiss the petition.

4. Heard arguments and perused the material made available before us on record.

5. Scanning of the record reveals that NAB investigated into a matter pertaining to embezzlement of land acquisition funds earmarked for acquiring lands to construct Sukkur - Hyderabad Motorway. During investigation one Ashiq Hussain Kaleri was found involved in the scam as its beneficiary. The accused was arrested, during investigation, accused confessed his guilt and admitted to have purchased a large number of immovable properties including subject property out of the proceeds of crime. On culmination of investigation Reference No.01/2023 (*re-the State v. Muhammad Adnan Rasheed, D.C Matiari and others*) was filed before Trial Court.

6. Record further evidenced that during investigation Dr. Nadeem Akbar (father of Petitioners) was called by I.O NAB to record his statement. Dr Nadeem Akber in his statement under section 161 CrPC recorded before I.O NAB admitted that subject property was sold out by him to accused Ashiq Hussain against sale consideration of Rs. 73,000,000/- (Rupees Seven Crore Thirty Lac) and an amount of Rs. 68,000,000/- was paid in cash to him and remaining amount of Rs. 5,000,000/- was payable to him. Dr Nadeem Akber while recording statement, produced the receipt of acceptance of money and transfer of the possession of subject property. It further transpired from the record that the statement of one Mujahid Jamali son of Allah Bachayo Estate Agent, was also recorded, wherein he confirmed the sale of subject property by Dr. Nadeem Akbar to accused Ashiq Hussain. For the sake of convenience, the statement under Section 161 of petitioner Dr. Nadeem Akbar is reproduced below:

*“Statement U/s 161 Cr.P.C Dated 07-02-2023 of Dr. Nadeem Akbar S/o Ali Akbar Baloch (Professor of Orthopedics Surgery, Ziauddin University) Office No. 021-32551881*

bearing CNIC No. 42000-0429702-1 having Cell No. 0300-2197692, R/o House No. SU-04, Askari-V, Sector J, Malir Cantt. Karachi in connection with Investigation against Adnan Rashid, DC Matiari, Muhammad Tashfeen Alam, DC Naushahro Feroze, Management of Sindh Bank and others regarding embezzlement of Govt. Funds, received from NHA for the purpose of Acquisition of Land for M-6 Motorway Project - Hyderabad to Sukkur at NAB Karachi,

My name is Dr. Nadeem Akbar S/o Ali Akbar Baloch

I have appeared before Investigation Officer, National Accountability Bureau (NAB) in Investigation against Adnan Rashid, DC Matiari, Muhammad Tashfeen Alam, DC Naushahro Feroze, Management of Sindh Bank and Others regarding embezzlement of Govt. funds, received from NHA for the purpose of acquisition of land for M-6 Motorway Project -Hyderabad to Sukkur at NAB Karachi to record my statement

It is stated that I have sold 1x House bearing No. SUH-261 measuring 500 Sq Yards situated at Malir Cantt Karachi to Ashique Hussain Kaleri. As per agreement total sale value of subject house was Rs. 73,000,000/- (Rupees Seven Crore Thirty Lac) Ashique Hussain Kaleri paid an amount Rs. 68,000,000/- in cash and remaining amount of Rs 5,000,000/- is still outstanding against him. Ashique Hussain Kaleri registered the same in the name of his wife Sajida. I have provided original receipts and possession letter to the Investigation Officer. 1

This is my statement."

Sd/

Investigation Officer

7. During pendency of reference NAB filed an application before Trial Court for freezing the property and appointment of receiver. Section 12 of the NAO, 1999 empowered the Chairman NAB and the Court trying an accused, to pass an order for freezing the property or part thereof, whether in possession of the accused or in the possession of any relative, associate or person on his behalf. If the property ordered to be frozen is a

debt or other movable property, the freezing may be made by seizure; or by appointment of receiver; or by prohibiting the delivery of such property to the accused or to anyone on his behalf. If the property ordered to be frozen is immovable, the freezing shall, in the case of land paying revenue, be made through the Collector of the district in which the land is situated, and in all other cases by taking possession; or by appointment of receiver; or by prohibiting the payment of rent or delivery of property to the accused or to any other person on his behalf. If the freezing is ordered by the Chairman NAB, it shall remain in force for a period not exceeding fifteen days unless confirmed by the Trial Court.

8. Application under Section 12 filed by NAB for freezing the assets of the accused Ashiq Hussain was granted vide order dated 28.04.2023. When confronted as to whether any appeal was preferred by Late Dr Nadeem Akber against the freezing order, learned Counsel for the Petitioners contended that since father of the Petitioners was not an accused in the reference, therefore, right of appeal was not available to him. The arguments so mounted by the Counsel for Petitioners were not in consonance with the provisions of the NAO, 1999. In case, a person is aggrieved of the freezing order, he may file objection before the Court within a period of fourteen days from the date of the freezing order and an appeal before High Court within a period of ten days of the decision on objections, by invoking the provisions of Section 13 of the NAO, 1999, which reads as under:

*13. Claim or objection against freezing: (a) Notwithstanding the provisions of any law for the time being in force, the Court shall have exclusive jurisdiction to entertain and adjudicate upon all claims or objections against the freezing of any property under section 12 above. Such claims or objections shall be made before the Court within 14 days from the date of the order freezing such property.*

*(b) The Court may for sufficient cause extend the time for filing such claims or objections for a period not exceeding additional 14 days.*

*(c) The accused or any other aggrieved party, whose claim or objection against freezing of property has been dismissed by the*

*Court, may, within ten days file an appeal against such order before the High Court.*

9. The purpose of promulgation of NAO, 1999 was to recover the ill-gotten money from the accused. Section 25 (b) of the NAO, 1999 granted discretion to Chairman NAB to accept the offer of an accused for plea of bargain during investigation, before or after the commencement of the trial or during the pendency of an appeal. In a plea for bargain the accused offers to return to the NAB the assets or gains acquired or made by him in the course, or as a consequence, of any offence. The Chairman, NAB, may, in his discretion, after taking into consideration the facts and circumstances of the case, accept the offer on such terms and conditions as he may consider necessary. If the accused agrees to return to the NAB the amount determined by the Chairman, NAB, it shall refer the case for the approval of the Court, or as the case may be, the Appellate Court and for the release of the accused. The amount deposited by the accused with the NAB shall be transferred to the Federal Government or, as the case may be, a Provincial Government or the concerned bank or financial institution, company, body corporate, co-operative society, statutory body, or authority concerned within one month from the date of such deposit.

10. It is also a matter of record that the accused Ashiq Hussain entered into a plea of bargain under Section 25(b) of NAO, 1999, which was accepted by NAB and liability amount of Rs.1247.03 Million was determined against the accused. The application for plea of bargain submitted by the accused was accepted by the Chairman NAB and referred to the Trial Court for approval. Learned Trial Court approved the Plea of Bargain vide order dated 26.07.2023. Through Plea of Bargain accused surrendered a number of properties, including the subject property, against the payment of liability, which fact finds mention in Para-9 of the order passed by the Trial Court, which reads as under:

*“9. Accordingly, the total individual liability of applicant/accused was calculated as Rs.1247.03 Million. The applicant/accused surrendered all his properties listed above in favour of Chairman NAB through surrender Deed except one property viz Survey No.101/3-A, Sector G, Askari-V, Malir Cantt Karachi, however, the process of surrender of said property is in progress, as such it is disclosed that same will take time to conclude but the applicant/accused and seller undertaken to*

*facilitate the immediate surrender of property in the name of Chairman NAB. In this way the total amount worked out/evaluated/calculated against the applicant/accused was 1247.03 Million and same was offered by him as plea bargain, which was accepted by Chairman NAB through D.G NAB Karachi vide order dated 08.06.2023."*

11. The father of the petitioners, was in knowledge of the proceedings before Trial Court. The freezing orders were passed by Trial Court in the month of April 2023 and plea of bargain was approved vide order dated 26.07.2023 almost two years prior to the death of Dr Nadeem Akber, but he did not initiate challenge to both the orders including the impugned notice that too was issued in his life time. An inference can be drawn from the silence of Dr Nadeem Akber, that he was not aggrieved of the proceedings by NAB. Had it been the case, he ought to have lodged appropriate application before Trial Court.

12. On the death of Dr Nadeem Akber Petitioners by concealing the facts of investigation and monetary transactions, by twisting the story challenged the impugned notice before this Court under its writ jurisdiction. Petitioners if were aggrieved of the freezing order, or the surrender order, they were required to file objections before Trial Court under Section 13 of NAO, 1999 seeking an extension in time, and an appeal before High Court within Ten days against the decision on the objections. The Petitioners chose to remain silent, thus the freezing orders and surrender orders attained finality.

13. The petitioners have challenged the impugned notice without disclosing the material facts. The assertion of the Petitioners appears to be an afterthought plea to get dual benefits. The father of the petitioners accepted the money from the accused for sale of the house and admitted such fact during investigation. Petitioners did not file any rejoinder to the assertions made by the NAB regarding subject property, which amounted to an admission of assertions in contra. Petitioners failed to challenge the freezing and plea of bargain orders through which the subject property stood surrendered in favor of concerned Government, thus attained finality and became a closed and past transaction.

14. Petitioners have failed to point out any illegality in the impugned notice issued in compliance with the order passed by Trial Court. The claim of the petitioners that impugned notices trumped their fundamental rights guaranteed under Article 23 and 24 of the Constitution of the Islamic Republic of Pakistan, 1973 was without force. To the own admission of the father of the Petitioners during investigation before IO NAB that he had accepted a bounty of Rs 68 Million from a person who was involved in a heinous offence of corruption and corrupt practices, thus precluded petitioners from making any claim against the subject property that stood surrendered in favor of concerned government to equalize the loss through recovery of proceeds of crime. The petitioners have failed to demonstrate that they have been deprived of any fundamental rights, calling for any indulgence of this Court.

15. The petition therefore fails and is dismissed, alongwith pending application(s).

**JUDGE**

**JUDGE**

**HEAD OF CONST.BENCHES**

Nadir\*

Approved for reporting