

# IN THE HIGH COURT OF SINDH AT KARACHI

PRESENT:

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

**C.P.No.D-7974 of 2022**

(Mst. Hafsa Binte Arshad versus Province of Sindh and others)

**C.P.No.D-376 of 2024**

(Asad Waqar versus Province of Sindh and others)

**Date of hearing: 09.03.2026.**

**Date of Order: 19.03.2026.**

Mr. Muhammad Saleem Mangrio, Advocate for the Petitioner in C.P. No.D-7974/2022.

Mr. Hanif Faisal Alam, Advocate for Petitioner in C.P. No.D-376/2024.

Mr. Zia-ul-Haq Makhdoom, Advocate for Respondent a/w Ms. Hira Agha and Fatima Ashfaq, Advocates for Respondents Nos.4 to 6 in C.P. No.D-7974/2022 and for Respondent No.5 in C.P. No.D-376/2024.

Mr. Sarmad Hani along with Mr. Meezan Ali, Advocates for Respondent No.5 in C.P. No.D-376/2024.

Mr. Ayan Mustafa Memon, Advocate for Respondent No.7.

Mr. Qaim Ali Memon, Advocate for Respondent.

Mr. Syed Zaeem Haider, Advocate for Applicant/Intervener.

M/s. Amanullah Qazi and Humaira Jatoi, Advocates for SBCA.

Mr. Anwar Khalid, Advocate for Sindh Master Plan Authority.

Ms. Nazia Siddiqui, Advocate for KDA.

Mr. Abdul Jaleel Zubedi, A.A.G.

## **JUDGMENT**

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

2. The Petitioner Mst. Hafsa Binte Arshad has filed "**Constitution Petition No.D-7974/2022**" under Article-199 of the Constitution of Islamic Republic of Pakistan, 1973 seeking following relief:-

- I. *Declare that KDA is the lawful owner of land admeasuring 1.666.66 30 yards in Survey No. 171 Deh Gujra, Block 13-C. Gulshan-e-Iqbal, KDA Scheme 24, Main University Road Karachi (the Subject Property), and it forms part of Scheme-24 of KDA,*

- II. *Declare that the Lease Deed dated 23.07.1996 is illegal and void ab initio, for being executed malafidely for extraneous consideration and without jurisdiction, and accordingly cancel the Lease Deed,*
- III. *Declare that the Respondents in particular Respondent No. 3 had no authority to pass the Impugned Decision dated 17.04.2017 or issue Regularization Letter dated 16.05.2017 in respect of the Subject Property, and set aside and quash them,*
- IV. *Declare that the Respondents No. 4 to 6 are not lawful owners of the Subject Property, and direct the Respondents In particular Respondents No. 4 to 6 to handover physical vacant possession of the Subject Property to KDA,*
- V. *Declare that the Subject Property is by-birth a designate Petrol pump plot and neither it can be used for any other commercial purpose nor a multi-stories building can be raised thereon,*
- VI. *Declare that Respondent No. 8/KDA or Respondent No. 2/Land Utilization Department has no authority to dispose of any Petrol pump / commercial plot (including Subject Property) except by way of a public auction in accordance with law,*
- VII. *Declare that the Respondents No. 8 and 9 have acted Illegally by withdrawing Suit No. 795 of 2018 and CP. No. D-7504 of 2019, and surrendering the Subject Property in favour of Respondent No. 4, and take departmental disciplinary action against Respondent No. 9 for misconduct and compromising the interest of KDA along with public at large,*
- VIII. *Appoint the Learned Nazir of the Court to inspect the Subject Property and report the status and construction thereof including existence of site/booking office of the proposed project and dismantled/closed petrol pump,*
- IX. *Permanently restrain the Respondents No. 4 to 6 or any person under them from raising any construction or creating any third-party interest and/or handing over possession of the Subject Property to any third party,*
- X. *Permanently restrain the Respondents in particular Respondent No. 10/SCBA not to sanction or approve any proposed building plan or additional/alteration plan in respect of the Subject Property till decision of this petition,*
- XI. *Permanently restrain the official Respondents from passing any order or directions in respect of the Subject Property, and*
- XII. *Grant any other relief as this Honourable Court deems appropriate in the suit.*

3. The facts giving rise to the present Constitutional Petition [C.P. No. D-7974 of 2022] are that the Petitioner, claiming to be a resident of the concerned locality, has invoked the constitutional jurisdiction of this Court by filing the instant petition impugning the legality and validity of the lease, subsequent regularization, and the proposed change of land use in respect of a plot measuring 1,666.66 square yards, situated in Survey No.171, Deh Gujro, Block-13-C, Gulshan-e-Iqbal, KDA Scheme No.24, Main University Road, Karachi (hereinafter referred to as the "Subject Property"). The Petitioner maintains that the Subject Property constitutes public land vested in the Karachi Development Authority (KDA) and that the acts and conduct of the

official respondents in leasing out and subsequently regularizing the said land in favour of Respondent No.4 are wholly unlawful, arbitrary, and without lawful authority. The Petitioner contends that the Subject Property was never disposed of through public auction, which is the prescribed and mandatory mode for disposal of commercial plots under the KDA (Disposal of Land) Rules, 1971, and therefore the ownership and title of the Subject Property have continued to vest in KDA. The description of the land contained in the lease deed corresponds with the description of the Subject Property, though it refers to Na-Class land instead of Survey land.

4. The genesis of the dispute can be traced back to the year 1964, when the Government of West Pakistan, through the Basic Democracies, Social Welfare and Local Government Department, issued Notification No. SO-IV(LG)KDA/7-16/62 dated 09.06.1964, whereby Karachi Development Authority Scheme No.24, designated as Federal B-1 Site at Country Club Road, Karachi, comprising approximately 2.662 acres of land situated in Deh Gujro and Okewari, was duly sanctioned. The Petitioner contents that pursuant to the aforesaid notification, the Deputy Commissioner, Karachi, through a Possession Report dated 09.09.1964, formally handed over possession of the land forming part of the said scheme to KDA. The said possession report indicates that the entire land comprising Survey No.171, Deh Gujro, was delivered to KDA and that at the time of such transfer the land was Government land, free from any private ownership or evacuee claims. It is further contented that the Subject Property forms part of Survey No.171, which subsequently became part of Block-13-C, Gulshan-e-Iqbal, under the master planning carried out by KDA. As per the Master Plan prepared by the competent planning authorities of KDA, the said plot was earmarked exclusively for petrol pump purposes. However, the material placed on record further discloses that on 23.07.1996, the Government of Sindh, through the office of the Mukhtiarkar, executed a Lease Deed in respect of land measuring 1,666.67 square yards, described as Na-Class No.171, Deh Gujro, in favour of late Rana Azhar Ali (hereinafter referred to as the "Deceased"). The said lease was purportedly granted for a period of ninety-nine (99) years for **commercial/petrol pump** purposes. The Petitioner alleges that the said lease was granted without lawful authority, on the ground that after the sanction of KDA Scheme-24 and the handing over of possession of the land to KDA, the Mukhtiarkar or the Land Utilization Department lacked the

jurisdiction or competence to lease out the land. It is further alleged that during his lifetime the Deceased occupied the Subject Property and established a petrol pump, which was subsequently operated through M/s Shell Pakistan Limited via its retailer, Respondent No.7. In the year 2012, KDA issued a Show Cause Notice dated 28.01.2012 to Respondent No.7 requiring removal of the alleged encroachment from the Subject Property. The said notice was assailed before this Court through C.P. No. D-542 of 2012, which is stated to be pending adjudication. During the pendency of the said proceedings, this Court through order dated 28.04.2017 directed that no third-party interest shall be created in respect of the Subject Property. It reflects from the contents of the petition that during the pendency of the said proceedings, the Land Utilization Department, through its Section Officer, sought clarification regarding the ownership status of the Subject Property from the Deputy Commissioner, Karachi. In response thereto, the then Mukhtiarkar, through comments dated 11.04.2012, acknowledged that the Subject Property belongs to KDA. Notwithstanding the aforesaid position, Respondent No.4 instituted C.P. No. D-1787 of 2012 before this Court seeking directions for regularization of the Subject Property and issuance of challan for payment of differential charges in terms of the relevant provisions of Ordinance No. III of 2001. The record indicates that the Land Utilization Committee, in its meeting held on 05.01.2012, had resolved that the land in question could not be regularized until the dispute relating to its title attained finality before the competent courts. Despite the said decision, the matter was subsequently reconsidered. In the meantime, KDA filed an intervener application in the said petition and also addressed communications dated 21.01.2017 and 01.02.2017 to the concerned authorities informing them that the Subject Property formed part of KDA Scheme-24, and requesting that no steps be taken towards regularization of the land while the matter remained sub judice before this Court.

5. It is alleged that notwithstanding such objections, a meeting of the Sindh Government Lands Committee was convened on 17.04.2017 to consider the request of Respondent No.4 for regularization of the Subject Property. The Petitioner contends that notice of the said meeting was served upon KDA only after the meeting had already concluded, thereby depriving KDA of an effective opportunity of being heard. During the said meeting, the Committee resolved to regularize the plot measuring 1,666.60 square yards in Na-Class No.171 of Deh

Gujro in favour of Respondent No.4, subject to payment of certain charges described as loss caused to the Government. The said decision was thereafter communicated to the Deputy Commissioner (East), Karachi, through letter dated 16.05.2017, requesting that necessary entries be made in the revenue record. According to the Petitioner, the said decision was taken without jurisdiction and in violation of the principles of natural justice, particularly in view of the pendency of litigation before this Court. It is further stated that after the aforesaid decision was taken, Respondent No.4 withdrew C.P. No. D-1787 of 2012, and the said petition was disposed of through order dated 18.10.2017, without prejudice to the rights of other parties. Subsequently, KDA instituted Suit No.795 of 2018 before the competent court seeking declaration of ownership of the Subject Property and cancellation of the Lease Deed as well as the regularization decision. During the pendency of the said suit, the Court through order dated 16.11.2020 restrained the respondents from creating any third-party interest in respect of the Subject Property. The Petitioner has further alleged that at a later stage the Deputy Commissioner, Karachi East, who had earlier been involved in the matter, was appointed as Director General, KDA, whereafter the stance of KDA underwent a material change and KDA proceeded to file applications seeking withdrawal of the aforesaid suit. Ultimately, through order dated 21.10.2022, the suit instituted by KDA was permitted to be withdrawn unconditionally. The Petitioner asserts that such withdrawal was collusive in nature and resulted in the surrender of valuable public land in favour of a private party. It is further averred that the petrol pump operating upon the Subject Property was closed and dismantled in the year 2019, and that Respondent No.4 has since constructed a site/booking office and is reportedly seeking approval for construction of a multi-story commercial building upon the Subject Property. According to the Petitioner, any such construction would be in violation of the Master Plan, the applicable development laws, and the rights and interests of the residents of the locality. Being aggrieved by the aforesaid actions and apprehending that the authorities may proceed to approve construction upon the Subject Property leading to the creation of third-party interests, the Petitioner has invoked the constitutional jurisdiction of this Court through the present petition seeking appropriate relief in accordance with law.

6. On notices, Respondent Nos. 1 and 2 have filed their respective comments contesting the maintainability of the instant petition and

have prayed for its dismissal in limine. They have raised preliminary objections to the effect that the petitioner has approached this Court with unclean hands by allegedly setting up a false, fabricated, and concocted narrative and is, therefore, not entitled to any discretionary relief under the constitutional jurisdiction of this Court. It has further been contended that no cause of action has accrued to the petitioner against the answering respondents, as the petitioner has no lawful interest or concern whatsoever with the land forming the subject matter of the petition. Respondent Nos. 1 and 2 have further maintained that the land in question belongs to the Government of Sindh and was allotted through the Land Utilization Department on lease in the year 1996. According to them, the matter relating to the said land had been duly examined and decided by the competent committee constituted by the Government of Sindh for the purpose of regularization of government land. It has been asserted that the entire process, including the regularization of the land and conversion of the lease, was undertaken strictly in accordance with the applicable law and in conformity with the provisions of the Colonization and Disposal of Government Lands Sindh Act, 1912, as well as other relevant rules governing government land. The respondents have categorically denied any illegality, irregularity, or mala fide on their part and have contended that the allegations levelled in the petition are wholly incorrect, misconceived, and devoid of substance. It has further been stated that several averments made in the petition do not pertain to Respondent Nos. 1 and 2 and that the petitioner has failed to establish any legal right, interest, or locus standi in respect of the property in question. On the basis of the foregoing submissions, Respondent Nos. 1 and 2 have prayed that the instant petition be dismissed with costs.

7. The private Respondents Nos. 4 to 6 have also filed their counter-affidavit wherein they have contended that the present petition is not maintainable either in law or on facts and is liable to be dismissed with costs. According to them, the allegations contained in the petition are false, frivolous, vexatious, and self-serving, and have been levelled with mala fide intentions. It is asserted that the petition constitutes a clear abuse of the process of this Court and has been instituted with ulterior motives to harass and blackmail the answering respondents. The private respondents have further contended that the petitioner lacks locus standi to maintain the present petition and has approached this Court without clean hands. It is their stance that the petitioner has no concern whatsoever with the subject property and

that the petition has been filed at the behest of her father-in-law with the intention of exerting pressure upon and extracting unlawful gain from the answering respondents. It has further been alleged that the petitioner and her in-laws are habitual blackmailers who seek to harass members of the business community, particularly builders and developers, for ulterior and wrongful gains. It has also been contended that the instant petition involves disputed questions of fact relating to title, ownership, and possession of the property, which cannot be adjudicated in the constitutional jurisdiction of this Court under Article 199 of the Constitution. According to the respondents, the relief sought by the petitioner essentially relates to the cancellation of title documents and the grant of declaratory relief, matters which squarely fall within the exclusive domain of the civil courts and can only be pursued through a properly instituted civil suit under the relevant provisions of the Specific Relief Act.

8. On merits, Respondents Nos. 4 to 6 have asserted that the subject property was originally granted by the Government of Sindh in favour of Late Rana Azhar Ali Khan, the predecessor-in-interest of the answering respondents, on 13.08.1963 for a period of ten years. Thereafter, a lease for a period of thirty years was granted to him on 02.02.1964, prior to the notification dated 09.06.1964 issued in favour of the Karachi Development Authority (KDA). It has been stated that an area measuring approximately 1,000 square yards from Survey No. 171 of Deh Gujro was initially granted to the said predecessor by the Deputy Commissioner, Karachi, in the year 1963, and subsequently an additional area measuring 666.66 square yards was also allotted through the Land Utilization Department. According to them, said land was granted and leased in accordance with the applicable legal framework governing government land, including the Sindh Colonization of Government Lands Act, 1912, as well as other relevant land revenue laws. The respondents have further submitted that a lease agreement in respect of the subject property was duly executed between the Government of Sindh and Late Rana Azhar Ali Khan and that the property was subsequently granted a long-term lease of 99 years on 23rd July, 1996 for commercial and petrol pump purposes. After the demise of the original allottee, his legal heirs approached the competent authorities for regularization of the property. The matter was thereafter placed before the Sindh Government Lands Committee, which ultimately decided to regularize the property in favour of the legal heirs. Pursuant thereto, the Government of Sindh issued a

regularization letter in the year 2017, thereby restoring and regularizing the land in favour of the predecessor-in-interest of Respondents Nos. 4 to 6. It has also been contended that the subject property does not form part of the land vested in the Karachi Development Authority for Scheme No. 24, and that the ownership of the property in favour of the predecessor of the answering respondents has been acknowledged in earlier litigation as well. In this regard, reference has been made to a constitutional petition previously filed by the Karachi Development Authority which was subsequently withdrawn after verification of the official record confirming that the land had been leased by the Board of Revenue in favour of the predecessor of Respondents Nos. 4 to 6. The respondents have further asserted that the predecessor-in-interest had also initiated rent proceedings in respect of the property against a commercial occupant, which ultimately culminated in orders for delivery of possession in his favour, thereby demonstrating his lawful possession and control over the subject property. According to the answering respondents, the entire process of allotment, lease, and subsequent regularization of the land was undertaken strictly in accordance with law and through competent authorities, and the petitioner has failed to establish any violation of law or infringement of her legal rights. It has been further contended that the petitioner possesses no legal interest in the property and, therefore, lacks the competence to challenge the title or ownership of the answering respondents. They have further maintained that the answering respondents, being the lawful successors and legal heirs of the original allottee, are entitled to enjoy and utilize the property in accordance with law, and that their rights are protected under the constitutional guarantees relating to property and lawful trade or business. On the basis of the foregoing submissions, Respondents Nos. 4 to 6 have prayed that the instant petition be dismissed with exemplary costs, and that appropriate action be taken against the petitioner for making false and misleading statements before this Court.

9. Respondent Nos. 8 and 9 Karachi Development Authority (KDA) have also filed their comments wherein it has been contended that KDA Scheme No. 24, Gulshan-e-Iqbal was duly framed and notified vide Notification No. SO-4 (LG) KDA/7-16/62 dated 15.06.1964. It has been asserted that the land in question had, prior to the issuance of the said notification, already been allotted by the Deputy Commissioner, Karachi to Rana Azhar Ali Khan in the year 1963 for

the establishment of a petrol pump, and thus such allotment preceded the notification of the aforesaid scheme. It has further been stated that in the layout plan prepared by KDA for Scheme-24, the subject plot was duly reflected as a petrol pump site and designated as "PP" (Petrol Pump). Subsequently, the Executive Engineer, Scheme-24, KDA issued the requisite site plan in respect of the said plot. According to KDA, the original allottee thereafter entered into a rental arrangement with Shell Pakistan Limited through its retailer Aamir Baqi for operating a petrol pump at the said site. It has further been stated that permission for installation of a CNG station was also granted by the Master Plan Department pursuant to proceedings conducted before the Provincial Ombudsman (Mohtasib), Sindh. KDA has further explained that the subject land was initially granted on lease by the Deputy Commissioner, Karachi for a period of thirty years on 13.08.1963. Upon expiry of the said lease period, the Board of Revenue, Sindh, through its Member, regularized and extended the lease in favour of the allottee for a further period of ninety-nine years in the year 1996. According to KDA, the Board of Revenue remained the lessor and competent authority with respect to the said land. It is further the stance of KDA that a dispute subsequently arose between KDA and the Board of Revenue regarding the jurisdiction of the land, particularly on the question as to whether the subject land fell within the notified boundaries of Scheme-24. While KDA initially maintained that the land formed part of the scheme area, the Board of Revenue did not concur with such position in view of the prior allotment made through the office of the Deputy Commissioner. According to KDA, the matter was ultimately examined by the Lands Committee constituted by the Government of Sindh under the chairmanship of a Senior Judge of this Court. After examining the record and hearing the concerned parties, the said Lands Committee regularized the land in favour of the original allottee and his legal heirs. KDA has further stated that proceedings were also initiated under Section 3(1) of the Sindh Public Property (Removal of Encroachment) Act, 2010. During the course of such proceedings, it transpired that the occupant possessed documentary title issued by the competent authority of the Government of Sindh through the Land Utilization Department of the Board of Revenue. In view of the said documents and the regularization proceedings conducted before the Lands Committee, the occupation of the land was found to be supported by lawful title. According to KDA, the respondents have remained in possession of the land and have been operating the petrol pump since the year 1963 on

the basis of allotment and lease documents issued by the competent authority. KDA has further pointed out that the requisite approvals relating to the site plan, layout plan and other relevant permissions for operation of the petrol pump and CNG station were duly processed through the concerned authorities. It has also been stated that the Sindh Building Control Authority is the competent authority for approval of building plans under the applicable building by-laws, whereas the Board of Revenue, Sindh continues to remain the lessor of the subject land. According to KDA, the matter had already been examined by the competent forum of the Provincial Government, namely the Lands Committee, which after considering the relevant record and hearing the parties regularized the land in favour of the original allottee. It has therefore been asserted that such regularization was carried out after due fulfillment of the requisite legal formalities and that no illegality or irregularity occurred in the process.

10. Respondent No.10 Sindh Building Control Authority (SBCA) has also filed its comments/report wherein it has been stated that the present matter essentially pertains to a dispute regarding property bearing Plot No. PP-22, Block-13-D, NC-171, Deh Gujro, Tappo Gujro, Taluka Gulshan-e-Iqbal, situated in Karachi. It has been asserted that the dispute is primarily between the petitioner and the private respondents and does not directly involve any unlawful act on the part of SBCA. According to SBCA, an application was submitted by Javed Iqbal Khan and others seeking approval of a proposed building plan for construction of a commercial building on the said plot. The application was accompanied by the requisite documents and was forwarded through the lessor authority for consideration and approval. It has further been stated that after scrutiny of the submitted documents and examination of the proposal, the competent authority, namely the Director General of SBCA, granted approval of the commercial building plan. The approval permitted construction comprising: Basement (showrooms, ARS and services), Ground Floor (showrooms and services), First to Third Floors (visitors' parking and services), Fourth to Seventh Floors (project parking and services), Eighth Floor (recreation area and services), Ninth to Twenty-Sixth Floors (offices), and Roof Level (solar panels, battery room and services). The said approval was conveyed through letter dated 11.08.2023. According to SBCA, subsequent to the approval of the building plan, no construction activity has yet commenced at the site.

It has been stated that the plot presently remains vacant and only a boundary wall has been constructed around the premises, while security personnel have been deployed at the site. SBICA has further stated that the approval of the building plan was granted strictly in accordance with the applicable laws and building regulations. Since no construction activity has commenced at the site, no violation of building laws or regulations presently exists. However, it has been clarified that in the event any violation is committed during the course of construction, appropriate action shall be taken by the authority in accordance with law.

11. **[C.P. No. D-376 of 2024]**. The Petitioner Asad Waqar has filed Constitution Petition No.D-376/2024 under Article-199 of the Constitution of Islamic Republic of Pakistan, 1973 seeking following relief:-

*Declare that the Construction Perut dated 11.08 2023 bearing Reference No Deh/PC-18/OWC/Arch.& Planning/Construction Permit/2023/209 (Impugned Approval of the Proposed Project is illegal and contrary to the purpose of the Subject Property se land measuring 1,666 square yards, in Survey No. 171, Deh Guro, Block 13-C, Gulshan-e-Iqbal, KDA Scheme 24, Main University Road, Karachi, therefore liable to be cancelled/struck down.*

- i. *Direct the Respondent No.2 to cancel the Impugned Approval of the Proposed Project.*
- ii. *Direct the Respondent No.2 to demolish and remove all construction over the Subject Property which is not related to that of a Petrol Pump.*
- iii. *Permanently prohibit the Respondent No.2 from approving any residential or commercial project, other than that of a petrol pump, on the Subject Property.*
- iv. *Direct the Respondent No.1 to ensure that a Petrol Pump is made operational on the Subject Property within a penod of 6 months, failing which to cancel all lease/title documents of the Subject Property due its non-utilization and dispose of the Subject Property in accordance with law to a person who shall use it for a Petrol Pump purpose.*
- v. *Grant costs of the Petition.*
- vi. *Grant any other relief as deemed appropriate by this Court.*

12. The facts of the case in C.P. No. D-376 of 2024 are that the petitioner, claiming to be a resident of the locality situated at a distance of approximately 500 meters from a parcel of land measuring 1,666 square yards, bearing Survey No.171, Deh Gujro, Block-13-D, Gulshan-e-Iqbal, KDA Scheme No.24, Main University Road, Karachi (**hereinafter referred to as the “subject property”**), has invoked the constitutional jurisdiction of this Court primarily assailing the approval granted for the development of a high-rise commercial project

upon the said property. According to the petitioner, Respondent No.2 issued a Construction Permit dated 11.08.2023, bearing Reference No. Deh/PC-18/OWC/Arch & Planning/Construction Permit/2023/209, whereby approval was accorded for the construction of a multi-story commercial building comprising several floors. It is the contention of the petitioner that the grant of such approval is unlawful and without lawful authority, as the subject property was originally designated and allotted for the specific purpose of establishing and operating a petrol pump in accordance with the relevant master plan and the terms and conditions of the lease governing the property. The petitioner has further averred that the genesis of the matter traces back to the year 1963, when an area measuring 1000 square yards out of Survey No.171, Deh Gujro, was allegedly granted to Late Rana Azhar Ali Khan through an *Ijazatnama* for the installation and operation of a petrol pump and service station. Subsequently, vide notification dated 09.06.1964, KDA Scheme No.24 was formally notified by the Karachi Development Authority, encompassing approximately 2,662 acres of land situated in Deh Gujro and Deh Okewan. The petitioner asserts that following the promulgation of the said scheme, and in terms of Article 45 of the Karachi Development Authority Order, 1957, a public notice was issued by the authority containing the details of the scheme together with the relevant master plan. It is stated that in the said notice, particularly in Statement No.2, certain government survey numbers of Deh Gujro intended to vest in KDA for the purposes of the scheme were enumerated, and at Serial No.11 the survey number pertaining to the subject property was included. On this premise, the petitioner contends that the subject property forms an integral part of KDA Scheme No.24 and has historically been earmarked as a petrol pump site in accordance with the notified master plan. It has further been pleaded that in the year 1979, a report prepared by the Deputy Commissioner (East) allegedly revealed that the petrol pump operating on the subject property had occupied an area in excess of the originally allotted land. Consequently, upon an application submitted by the original allottee, the Land Utilization Department, through its letter dated 29.06.1980, granted an additional area measuring 666.66 square yards, which according to the petitioner was permitted solely for the purpose of providing an approach road to the petrol pump. The petitioner has also asserted that upon the expiry of the original 30-year lease of the subject property, the Secretary, Land Utilization Department, through a letter dated 15.05.1996, extended the lease period and converted the same into a 99-year lease. It is alleged that in

the said extension letter the purpose of the land was described as “Commercial/Petrol Pump”, which, according to the petitioner, was arbitrary, without lawful authority and beyond the competence of the Land Utilization Department, as it amounted to an unauthorized modification of the approved master plan. The petitioner maintains that the designated land use of a property forming part of a notified development scheme cannot be altered unilaterally except in accordance with law and by the competent authority. It has further been stated that through an order dated 16.05.2017 issued by the Secretary, Land Utilization Department, the lease in favour of the predecessor-in-interest of the private respondents was regularized and restored subject to certain terms and conditions. According to the petitioner, one of the conditions stipulated therein was that the land would be utilized strictly for the purpose for which it had originally been allotted, and that the lessee would obtain necessary clearance from the Master Plan Group of Offices and ensure compliance with the relevant town planning regulations. The petitioner contends that since the original purpose of the allotment was for a petrol pump, the subject property cannot lawfully be used for the construction of a high-rise commercial building.

13. The petitioner has further averred that a petrol pump remained operational on the subject property until approximately December 2019, and the same was frequently used by the petitioner as well as by residents of the locality and commuters travelling along University Road. It is alleged that after the closure of the said petrol pump, the nearest refueling facilities are located at considerable distances, including a PSO petrol pump near Rashid Minhas Road and another facility further along University Road, thereby causing inconvenience to motorists. According to the petitioner, the absence of a petrol pump in the vicinity has resulted in hardship for nearby residents and commuters, which would further be aggravated if the subject property is converted into a large-scale commercial development. It has also been disclosed by the petitioner that a separate constitutional petition, C.P. No. D-7974 of 2022, pertaining to the title of the private respondents in respect of the subject property, is presently pending adjudication before this Court. In the said proceedings, an order dated 31.05.2023 was passed whereby it was observed that the Sindh Building Control Authority (SBCA) may consider the proposed building plan independently of the interim orders passed in that petition, and in the event that approval was granted strictly in accordance with law,

the private respondents would be at liberty to undertake construction at their own risk and cost. It was further observed that if such approval was found to be contrary to law, the same would remain open to challenge before the competent forum. The petitioner asserts that he became aware of the impugned building plan and the proposed construction only upon noticing certain activities at the site which did not correspond with the operation of a petrol pump. Upon making inquiries, the petitioner claims to have discovered that the building plan for a multi-story commercial project had been approved by the concerned authority. According to the petitioner, any construction carried out pursuant to the impugned approval would adversely affect the residents of the locality and would permanently alter the designated land use of the subject property. Being aggrieved by the issuance of the impugned construction permit and asserting that the same is contrary to the master plan, the terms and conditions of the lease, as well as the applicable law, the petitioner has approached this Court through the instant constitutional petition seeking appropriate relief.

14. Pursuant to issuance of notices, Respondent No.2, namely the Sindh Building Control Authority (SBCA), has filed its comments wherein it has been stated that the present matter pertains to Plot No. PP-22, Block-13-C, NC-171, Deh Gujro, Tappo Gujro, Scheme No. 24, Gulshan-e-Iqbal, situated in District East, Karachi, measuring approximately 1,666.67 square yards and categorized as a commercial plot. According to SBCA, as per the record available with it, the owner/attorney, namely Mr. Javed Iqbal along with others, submitted a proposed building plan together with the requisite title documents before the One Window Cell / Architecture and Town Planning Section of SBCA for the purpose of obtaining construction permission. The proposed project comprises a basement (showrooms, ARS and services), Ground Floor (showrooms and services), First to Third Floors (visitor parking and services), Fourth to Seventh Floors (project parking and services), Eighth Floor (recreation area and services), Ninth to Twenty-Sixth Floors (offices), and Roof Level (solar panels, battery room and allied services). After due processing of the case and scrutiny of the submitted documents, the proposed building plan was approved by the competent authority on 11.08.2023. It has further been stated that a site inspection was conducted by the field staff of SBCA, during which it was reported that the subject plot is presently lying vacant and only a covered gated boundary wall exists at the site.

As per the inspection report, no construction activity has so far been observed at the said premises. The record further reflects that no comments have been filed by the remaining respondents in C.P. No. D-376 of 2024.

15. Learned counsel for the petitioners contended that the subject property measuring 1,666.66 square yards situated in Survey No.171, Deh Gujro, Block-13-C, Gulshan-e-Iqbal, KDA Scheme No.24, Karachi, forms part of the land vested in the Karachi Development Authority (KDA) pursuant to the notification dated 09.06.1964 whereby Scheme No.24 was sanctioned. It was argued that the possession of the entire survey number was handed over to KDA through a possession report dated 09.09.1964, which clearly reflected that the land was government land without any private ownership or evacuee claim at the relevant time. Learned counsel further submitted that under the master plan prepared by KDA, the subject plot was specifically earmarked for petrol pump purposes, and therefore the same could not lawfully be used for any other commercial activity. According to the petitioners, the impugned lease deed dated 23.07.1996 executed in favour of late Rana Azhar Ali by the office of the Mukhtiarkar was issued without lawful authority, as after the sanction of Scheme No.24 and transfer of possession to KDA, the Land Utilization Department or revenue authorities had no jurisdiction to lease out the land. It was further contended that the regularization of the subject property in favour of the private respondents by the Sindh Government Lands Committee was illegal and void ab initio. Learned counsel submitted that even the Land Utilization Committee had earlier resolved that the land could not be regularized until the dispute regarding its title attained finality before the competent court, yet the matter was subsequently reconsidered without lawful justification. The petitioners argued that the impugned decision of the Lands Committee dated 17.04.2017 was taken in violation of the principles of natural justice as the Karachi Development Authority was not afforded a proper opportunity of hearing and the notice of the meeting was served after the meeting had already concluded. It was further submitted that the decision was taken despite the pendency of litigation before this Court, where directions had already been issued restraining the creation of third-party interest in the property. Learned counsel also argued that the subsequent withdrawal of Suit No.795 of 2018 filed by KDA seeking declaration of ownership and cancellation of the lease was collusive and resulted in the unlawful surrender of public land in

favour of a private party. According to the petitioners, the actions of the authorities reflect mala fide exercise of power and are contrary to the law governing disposal of public property.

16. In the connected petition (C.P. No. D-376 of 2024), it was further contended that the construction permit dated 11.08.2023 issued for a multi-story commercial building is contrary to the master plan and the original purpose of allotment, which was exclusively for a petrol pump. Learned counsel submitted that the conversion of a petrol pump site into a high-rise commercial project would not only violate the planning regulations but would also adversely affect the residents of the locality. It was therefore prayed that the impugned lease, regularization proceedings and construction permit be declared illegal and the authorities be restrained from permitting any construction on the subject property other than for the originally designated purpose.

17. Learned counsel appearing for Respondent Nos.1 and 2 raised preliminary objections regarding the maintainability of the petition. It was contended that the petitioner has no locus standi to challenge the lease or regularization of the land as she has no legal interest in the subject property. It was further submitted that the petition is based on incorrect and misleading assertions and that the petitioner has approached this Court with unclean hands. According to the respondents, no cause of action has accrued to the petitioner against the answering respondents. On merits, it was contended that the land in question pertains to the Government of Sindh and was leased out through the Land Utilization Department in accordance with the applicable provisions of the Colonization and Disposal of Government Lands Sindh Act, 1912. The respondents maintained that the matter was examined by the competent committee constituted by the Government of Sindh for regularization of government land and the regularization was carried out strictly in accordance with law. It was therefore submitted that no illegality or irregularity has been committed by the official respondents and the petition deserves to be dismissed with costs.

18. Learned counsel for the private respondents strongly opposed the petition and argued that the same is not maintainable either in law or on facts. It was contended that the petition is frivolous, mala fide and has been filed with ulterior motives to harass the answering respondents. It was further submitted that the petitioner has no

locus standi as she has no concern whatsoever with the subject property. According to the respondents, the petition has been filed at the instance of the petitioner's relatives for the purpose of exerting pressure and extracting unlawful gain from the business community. On merits, learned counsel contended that the subject property was originally allotted to late Rana Azhar Ali Khan in the year 1963 for establishment of a petrol pump, which was prior to the notification of KDA Scheme No.24 in 1964. The allotment was initially for a period of ten years and subsequently converted into a 30-year lease by the competent authority. It was further argued that upon expiry of the original lease period, the Government of Sindh through the Board of Revenue extended the lease for 99 years in 1996, thereby lawfully regularizing the possession and title of the allottee. The counsel for the respondents also submitted that after the death of the original allottee, the legal heirs approached the competent authorities for regularization, and the Sindh Government Lands Committee, after examining the record and hearing all concerned parties, regularized the property in favour of the legal heirs in the year 2017. Learned counsel further contended that the petition involves seriously disputed questions of fact relating to title and ownership, which cannot be adjudicated in constitutional jurisdiction under Article 199 of the Constitution. According to the respondents, the relief sought essentially relates to cancellation of title documents and declaration of ownership, which can only be determined by a civil court through a properly instituted suit.

19. On merits, learned counsel contended that the subject property was originally allotted to late Rana Azhar Ali Khan in the year 1963 for establishment of a petrol pump, which was prior to the notification of KDA Scheme No.24 in 1964. The allotment was initially for a period of ten years and subsequently converted into a 30-year lease by the competent authority. It was further argued that upon expiry of the original lease period, the Government of Sindh through the Board of Revenue extended the lease for 99 years in 1996, thereby lawfully regularizing the possession and title of the allottee. The counsel for the respondents also submitted that after the death of the original allottee, the legal heirs approached the competent authorities for regularization, and the Sindh Government Lands Committee, after examining the record and hearing all concerned parties, regularized the property in favour of the legal heirs in the year 2017. Learned counsel further contended that the petition

involves seriously disputed questions of fact relating to title and ownership, which cannot be adjudicated in constitutional jurisdiction under Article 199 of the Constitution. According to the respondents, the relief sought essentially relates to cancellation of title documents and declaration of ownership, which can only be determined by a civil court through a properly instituted suit. It was therefore prayed that the petition be dismissed with exemplary costs.

20. Learned counsel appearing for KDA submitted that KDA Scheme No.24 was notified in the year 1964, however the subject land had already been allotted by the Deputy Commissioner, Karachi to Rana Azhar Ali Khan in 1963, which preceded the notification of the scheme. It was further submitted that in the layout plan of Scheme No.24 the said plot was shown as a petrol pump site (PP) and the necessary site plan was issued by the Executive Engineer of the scheme. According to KDA, the allottee had been operating a petrol pump on the site through M/s Shell Pakistan Limited and the relevant approvals including installation of a CNG station were also granted through competent authorities. It was further explained that a dispute later arose between KDA and the Board of Revenue regarding the jurisdiction of the land; however, the matter was ultimately examined by the Lands Committee constituted by the Government of Sindh under the chairmanship of a senior Judge of this Court, which after considering the record regularized the land in favour of the original allottee and his legal heirs. KDA therefore maintained that the respondents possess documentary title issued by the competent authority and that the regularization was carried out after fulfilling the required legal formalities.

21. Learned counsel for SBCA submitted that the authority has no direct dispute regarding the ownership of the subject property and that the controversy essentially relates to title between the petitioners and the private respondents. It was submitted that the private respondents submitted a building plan along with the relevant title documents through the lessor authority for approval. After scrutiny of the documents and compliance with the applicable building regulations, the competent authority approved the construction permit dated 11.08.2023 for a commercial building. It was further stated that upon inspection of the site it was observed that the plot is presently lying vacant and no construction activity has yet commenced. Learned counsel therefore contended that the building

plan was approved strictly in accordance with law and if any violation occurs during construction, the authority will take action in accordance with the relevant building regulations.

22. We have heard the learned counsel for the petitioners, the learned counsel representing the private respondents, as well as the learned law officer and counsel appearing on behalf of the official respondents including the Karachi Development Authority (KDA) and the Sindh Building Control Authority (SBCA). We have also carefully examined the material available on record with their able assistance.

23. The controversy in the present petitions revolves around a parcel of land measuring approximately 1,666.66 square yards, situated in Survey No.171, Deh Gujro, Block-13-C/D, Gulshan-e-Iqbal, KDA Scheme No.24, Main University Road, Karachi (**hereinafter referred to as the “subject property”**). In *Constitution Petition No. D-7974 of 2022* the petitioner, claiming to be a resident of the locality, has primarily challenged the legality of the lease deed dated 23.07.1996, the decision of the Sindh Government Lands Committee dated 17.04.2017 and the regularization letter dated 16.05.2017 whereby the land in question was regularized in favour of the predecessor-in-interest of Respondents No.4 to 6. In *Constitution Petition No. D-376 of 2024* the petitioner has assailed the construction permit dated 11.08.2023 issued by SBCA approving the construction of a multi-story commercial building upon the said property. The petitioners contend that the subject land forms part of KDA Scheme No.24 notified in the year 1964 and that the same had been earmarked in the master plan for petrol pump purposes. According to them, after the notification of the scheme and the handing over of possession of the land to KDA, the revenue authorities or the Land Utilization Department lacked the jurisdiction to grant or regularize any lease in respect of the said land. It has further been alleged that the impugned regularization and subsequent approval of the building plan were granted without lawful authority and in violation of the master plan as well as the principles of natural justice. On the other hand, the respondents have seriously disputed the stance of the petitioners. According to the private respondents, the land in question had been granted to their predecessor-in-interest as early as the year 1963, prior to the notification of KDA Scheme-24. They assert that the allotment and lease were made by the competent authority under the relevant land revenue laws and that the lease

was subsequently extended and regularized by the competent forum of the Provincial Government. It has further been contended that the petitioners lack locus standi to challenge the title of the respondents and that the issues raised in the petitions involve highly disputed questions of fact relating to ownership, title, possession and jurisdiction of different authorities, which cannot be adjudicated in constitutional proceedings.

24. From the pleadings of the parties and the arguments advanced before us, it clearly emerges that the central controversy relates to the determination of title and ownership of the subject property, and the ancillary question as to whether the land forms part of KDA Scheme No.24 or remained under the jurisdiction of the revenue authorities of the Government of Sindh. The rival parties have relied upon various documents including alleged allotment letters, lease deeds, possession reports, layout plans and proceedings before governmental committees. Each side disputes the authenticity, validity and legal effect of the documents produced by the other. At the very outset it is pertinent to observe that the constitutional jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 is essentially discretionary and is primarily intended for enforcement of fundamental rights and for examining the legality of actions of public functionaries. It is a settled principle of law that where the determination of a matter requires recording of evidence, examination of disputed documents, or adjudication of complicated questions relating to title and ownership of immovable property, the same cannot appropriately be undertaken in constitutional jurisdiction. It is by now a well-settled proposition that questions of title to immovable property are ordinarily to be adjudicated by civil courts in a properly instituted civil suit where parties are afforded the opportunity to lead evidence. The constitutional jurisdiction of the High Court cannot be converted into a substitute for a civil trial. Reference in this regard may be made to the well-recognized principle that when disputed questions of fact requiring detailed evidence are involved, the constitutional jurisdiction should not be invoked and the aggrieved party must seek remedy before the competent civil forum.

25. The Hon'ble Supreme Court of Pakistan has consistently held that disputed and controversial questions of fact cannot be adjudicated in the exercise of constitutional jurisdiction under Article

199 of the Constitution of the Islamic Republic of Pakistan. In the case of ***Mst. Kaniz Fatima through legal heirs v. Muhammad Salim and others, (2001 SCMR 1493)***, the Court categorically held that controversial questions of fact are not amenable to determination by the High Court while exercising its constitutional powers. Likewise, in ***Anjuman Fruit Arhtian and others v. Deputy Commissioner, Faisalabad and others, (2011 SCMR 279)***, it was observed that where the matter involves complex and disputed questions of law and fact which require recording of evidence, the High Court is justified in declining to exercise its constitutional jurisdiction, as such issues can only be properly resolved by the competent forum after recording evidence. The Supreme Court further held that petitions involving such controversies are liable to be dismissed as being not maintainable in constitutional proceedings. Recently in the case of ***Province of Sindh and others v. Amanullah and others, (2025 SCMR 2062)***, the Hon'ble Supreme Court of Pakistan comprehensively elucidated the scope and limitations of the constitutional jurisdiction of the High Courts under Article 199 of the Constitution of the Islamic Republic of Pakistan. The Court held that while exercising such extraordinary jurisdiction, the High Court is not competent to undertake a detailed examination of disputed questions of fact or to record evidence, particularly where the controversy cannot be resolved without the parties leading evidence. Nevertheless, the Court clarified that the High Court may examine the available record and the comments submitted by the concerned authorities to determine whether the matter can be adjudicated on the basis of admitted or undisputed documents without embarking upon an elaborate factual inquiry. Reliance was also placed upon the judgment in ***Special Secretary-II (Law and Order), Home and Tribal Affairs Department, Government of Khyber Pakhtunkhwa v. Fayyaz Dawar, (2023 SCMR 1442 = 2023 SCP 199)***, wherein it was reiterated that constitutional jurisdiction is primarily intended to provide an expeditious remedy where the illegality or impropriety of an action of a public authority can be demonstrated without delving into intricate or disputed facts. Furthermore, in ***Dr. Sher Afgan Khan Niazi v. Ali S. Habib and others, (2011 SCMR 1813)***, the Supreme Court emphasized that the bar of alternate remedy operates only when such remedy is adequate, efficacious, convenient, and expeditious, and capable of providing relief equally effective to that available under Article 199; otherwise, the constitutional jurisdiction of the High Court may still be invoked.

26. In the present case, the parties have taken diametrically opposite positions with regard to the origin of title of the subject property. While the petitioners claim that the land vested in KDA pursuant to the notification of Scheme-24 in the year 1964, the respondents assert that the allotment in favour of their predecessor predates the said notification and was lawfully granted by the competent revenue authority. The determination of such controversy would necessarily require examination of historical record, revenue documents, notifications, allotment letters and lease instruments, and may also require recording of oral evidence. Such an exercise falls squarely within the domain of the civil court. It is also noteworthy that the record itself reflects that the Karachi Development Authority had previously instituted Suit No.795 of 2018 seeking declaration of ownership and cancellation of the lease in respect of the same property, which was subsequently withdrawn. The very fact that the competent authority itself had chosen to pursue the matter before the civil court further reinforces the position that the dispute essentially pertains to title and ownership of immovable property and is therefore triable by the civil court.

27. Another well-settled principle of law is that a constitutional petition is not maintainable for the cancellation of title documents such as registered lease deeds, as such relief squarely falls within the exclusive jurisdiction of the civil courts under the provisions of the **“Specific Relief Act, 1877”**. In the present matter, the petitioners have specifically sought the cancellation of the lease deed dated 23.07.1996 along with a declaration that the land in question vests in the Karachi Development Authority (KDA). These prayers are essentially declaratory and consequential in nature and cannot be granted in proceedings under Article 199 of the Constitution. In this regard, reliance may be placed on the judgment in **Messrs EMAN Textile Mill through Chief Executive v. Province of Sindh through Secretary Power and Irrigation Sindh and others, (2012 M L D 902)**, wherein it was held that where land has been leased through a registered lease deed, the grievance against such document cannot be adjudicated in constitutional jurisdiction and the aggrieved party must approach the competent civil court for cancellation of the lease. The Court further observed that the existence of a registered lease deed, coupled with delivery of possession, raises disputed questions of fact which cannot be

examined in writ jurisdiction. Therefore, where the relief sought involves cancellation of a registered instrument and determination of title, the appropriate remedy lies before the civil court and not through a constitutional petition, particularly when the matter also involves disputed questions of fact and factual controversies not amenable to determination in constitutional jurisdiction. It is a settled proposition of law that once a document has been duly registered, the same cannot be annulled or set aside except through another registered instrument or by way of a declaration from a Court of competent jurisdiction in appropriate proceedings. In this regard, reliance may be placed upon the judgment in ***Mrs. Zaibun Nisa Through Attorney v. Karachi Development Authority, (PLD 1998 Karachi 348)***, wherein the Court observed that a registered document cannot be cancelled except through a lawful process strictly in accordance with the terms and conditions of the lease or by a declaration of the Court. The said principle also finds support from the authoritative pronouncements of the Hon'ble Supreme Court in case of ***Mst. Hamida Begum v. Mst. Murad Begum (PLD 1975 SC 624)*** and ***Majlis-i-Intizamia, Jamia Masjid v. Secretary to Government of Pakistan, (PLD 1975 SC 355)***, wherein it has been unequivocally held that cancellation of a registered document can only take place through a declaration of a competent Court. In the present case, admittedly no such declaration has been obtained; therefore, the registered instruments in question continue to hold the field and remain legally valid and operative.

28. Insofar as the approval granted by the Sindh Building Control Authority (SBCA) for the construction of a commercial high-rise building at the site of a petrol pump is concerned, it is observed that such sanction has been accorded by the competent authority strictly in accordance with law and after due observance of all codal formalities. The record reflects that prior to granting approval, all requisite No Objection Certificates (NOCs) were duly obtained from the concerned departments, and the proposed construction was examined in light of the applicable building control regulations, zoning parameters, environmental considerations, and safety standards. There is nothing on record to suggest that the approval process suffered from any procedural irregularity or legal infirmity. It is a well-settled principle of law that where construction is undertaken in consonance with a duly sanctioned building plan issued by the competent statutory authority, the same carries a

presumption of legality and cannot be termed as unauthorized or illegal merely on the basis of conjectures, surmises, or unsubstantiated allegations. Such sanctioned constructions stand on a distinct legal footing and are entitled to protection unless it is demonstrated through cogent and convincing evidence that the approval was obtained through fraud, misrepresentation, or in violation of mandatory legal provisions. Furthermore, the scope of interference by this Court in exercise of its constitutional jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, is limited and circumscribed. This Court does not sit as an appellate forum over the decisions of specialized statutory or regulatory bodies, particularly in matters involving technical assessments and regulatory compliance. Interference is warranted only in exceptional circumstances where mala fide, patent illegality, arbitrariness, or jurisdictional defect is apparent on the face of the record. The august Supreme Court of Pakistan, in a catena of judgments, has consistently held that issues relating to technical sanction, building plans, and regulatory approvals fall within the exclusive domain of the concerned authorities, and courts should exercise judicial restraint in such matters. It has further been reiterated that where an adequate and efficacious remedy is available under the relevant regulatory framework, constitutional jurisdiction ought not to be invoked as a substitute for such remedies. In the present case, the petitioners have failed to place on record any credible or legally tenable material to establish that the approval granted by SBCA is tainted by illegality, that any mandatory requirement has been violated, or that the ongoing construction is in deviation from the sanctioned plan. The objections raised are primarily speculative in nature and unsupported by any substantive evidence. Such bald assertions and apprehensions, in the absence of concrete proof, do not justify the invocation of extraordinary constitutional jurisdiction. The proper course, if any grievance subsists, lies before the competent regulatory forums constituted under the relevant laws, rather than before this Court.

29. Moreover, the petitioners in both petitions claim to be merely residents of the locality and have not demonstrated any direct legal right or proprietary interest in the subject property. While a resident may, in appropriate circumstances, challenge an action affecting public interest or violation of planning laws, such challenge cannot extend to seeking determination of title or cancellation of leasehold

rights of private parties, particularly where the matter is seriously contested by the concerned authorities themselves. So far as the challenge to the construction permit dated 11.08.2023 issued by SBCA is concerned, it is an admitted position on record that no construction activity has yet commenced at the site and that the plot presently remains vacant with only a boundary wall constructed around it. The approval granted by SBCA appears to have been based upon the title documents presented before it by the applicants. Whether such documents are valid or not is again a matter dependent upon the determination of title, which, as discussed above, cannot be adjudicated in these proceedings. It is a settled rule that where the very foundation of a claim depends upon determination of disputed title, any consequential challenge to administrative or regulatory approvals cannot effectively be decided until the question of title is first settled by a competent forum. Therefore, the challenge to the building plan approval is also intrinsically linked with the unresolved dispute regarding ownership of the land.

30. We are also mindful of the principle that constitutional jurisdiction is discretionary and equitable in nature, and the Court must exercise such jurisdiction only where the petitioner demonstrates infringement of a clear legal right and absence of an adequate alternate remedy. In the present case, an efficacious remedy in the form of a civil suit is not only available but appears to be the appropriate forum for resolution of the dispute. For the foregoing reasons, we are of the considered view that the controversies raised in the present petitions involve complex and disputed questions of fact relating to title, ownership and jurisdiction of authorities, which cannot be resolved in the constitutional jurisdiction of this Court under Article 199 of the Constitution.

31. Consequently, without expressing any opinion on the merits of the respective claims of the parties, both the petitions are dismissed as not maintainable, with the observation that the petitioners, if so advised, may avail appropriate remedy before the competent civil court or any other forum available under the law. Needless to observe that any observations made in this order are purely tentative in nature and shall not prejudice the rights of the parties before any competent forum.

32. The petitions along with all pending applications stand *disposed of* in the above terms.

JUDGE

JUDGE