

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
CP No.D-992 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
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Directions

1. For order on CMA No.23586/2025 (Contempt).

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Dated 14.04.2026

M/s. Ahmed Ali Ghumro and Abdul Samee, Advocates for Petitioners

Mr. Khuram Ghayas, Advocate for KMC.

Mr. Dhani Bux Lashari, Advocate for SBCA.

Ms. Humaira Jatoi, Advocate for SBCA.

Mr. Haad Abid, Advocate for Respondent No.6.

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The present petition No. 992 of 2023 was disposed of vide order dated 03.02.2025, wherein this Court observed that the primary grievance of the petitioners pertained to alleged illegal construction and obstruction at the entrance of the parking space and basement of *Rizvi Chambers*. This Court further noted that the petitioners might have additional complaints and, therefore, granted them liberty to file a fresh complaint before the Director General, Sindh Building Control Authority (DG SBCA), ensuring that such complaint was properly dated and addressed, along with proof of dispatch through TCS. It was directed that, upon receipt of such complaint, the DG SBCA shall pass a speaking order within a period of four months, after affording the petitioners an opportunity of being heard in accordance with law. A copy of the said order was also directed to be sent to the DG SBCA for compliance, and the petition, along with any pending applications, was disposed of in the above terms.

Subsequently, a report was submitted on behalf of the respondent/SBCA stating that, in compliance with the aforementioned order, the Authority had issued a notice dated 02.03.2026. It was further asserted that the said notice had been challenged in the disposed-of petition and that an interim order had been obtained without disclosing or acknowledging the earlier order dated 03.02.2025, thereby allegedly suppressing material facts. The respondent, therefore, requested that this Constitutional Petition No. D-992 of 2023 be tagged with the related petitions fixed for hearing for today, so as to avoid conflicting orders.

This Court, vide order dated 13.04.2026, observed that the submission made by the respondent did not constitute a compliance report, as the required speaking order in terms of the order dated 03.02.2025 had not yet been passed. Accordingly, the matter was fixed for hearing.

At this stage, learned counsel for the respondent No.4 raised a concern that he had not been afforded an opportunity of being heard and had not received any notice to defend the case. He submitted that the petition has been filed with concealment and misstatement of material facts. The controversy, if any, pertains solely to illegal construction on the subject plot. There is no dispute whatsoever regarding the shops or portions that have been lawfully constructed in accordance with the approved layout plan and the applicable building regulations. He submitted that the Show Cause Notice dated 07.09.2015 was issued only in respect of illegal construction and did not pertain to the shops that were lawfully constructed on the subject plot. He further submitted that Constitution Petition No. D-810 of 2011 was disposed of on 06.03.2013, whereby Respondent No. 2 SBCA was directed to remove or demolish any illegal construction raised on the subject plot. He added that the subject matter of C.P. No. D-810 of 2011 pertained exclusively to illegal construction. There has never been any dispute regarding the shops that were legally constructed and are duly occupied. Therefore, the order dated 06.03.2013 was rightly passed. He emphasized that the building was purchased on 13.04.1961, after which the shops were sold to different purchasers. It is further clarified that the relevant order pertained to the subject plot as a whole and not to any specific shop. In view of the foregoing submissions, he prayed that this Court may be pleased to dismiss the instant application/petition with costs.

Conversely, learned counsel for the petitioners contended that the petitioner was not the owner of the subject property and, therefore, lacked locus standi to question the matter at this stage after disposal of the petition.

Learned counsel for Respondent No. 2, the Sindh Building Control Authority (SBCA), submitted that the building plan for Plot No. 337, Sheet No. 9, Artillery Maidan, District South, Karachi, was duly approved vide Approval No. BCA/DCB-VIII/(Prop)/40/83/22 dated 27.05.1984 for a commercial structure comprising a part basement, ground floor, mezzanine, and seven upper floors, with the ground floor designated for shops and parking. He further contended that, although parking space was approved around the building, several unauthorized structures, including an RCC shop operating as M/s New Faizan Autos at the entrance, were subsequently erected in violation of the approved plan. In compliance with various orders of this Court, SBCA initiated enforcement proceedings, including the issuance of show-cause notices on 07.09.2015 and ejectment notices on 23.09.2015, followed by multiple demolition attempts with requests for police and Rangers' assistance. Despite resistance from occupants and law and order issues exacerbated by proceedings in C.P. Nos. D-811 of 2016 and D-892 of 2016 SBCA successfully demolished two illegal shops on 31.05.2016, with further actions carried out on 07.02.2017 and 10.10.2017. The demolished structures have not been reconstructed since. Learned counsel also submitted that this Court, vide order dated 17.02.2026 in

related petitions except C.P. No. D-992 of 2023, directed removal of violations with assistance from the Deputy Commissioner and SSP, and required submission of a compliance report within 45 days. In compliance, SBCA issued a notice dated 02.03.2026; however, the same was challenged in the already disposed of C.P. No. D-992 of 2023, and an interim order was allegedly obtained without disclosing the order dated 17.02.2026, amounting to suppression of material facts. He prayed for appropriate directions.

After hearing the learned counsel for the parties in the disposed of and connected matters, and upon perusal of the material available on record, this Court is of the considered view that the present proceedings do not warrant further adjudication under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, nor do they justify initiation of contempt proceedings at this stage.

It is an admitted position that C.P. No. D-992 of 2023 was disposed of vide order dated 03.02.2025, whereby the petitioners were granted liberty to approach the DG SBCA, who was directed to pass a reasoned and speaking order after affording an opportunity of hearing to all concerned parties. However, the report subsequently submitted by the SBCA does not constitute compliance with the said order, as only a notice dated 02.03.2026 was issued and no speaking order has been passed. Consequently, further intervention by this Court would be premature and contrary to the doctrine of exhaustion of statutory remedies. The objections raised by learned counsel for Respondent No. 4, including those relating to locus standi and alleged concealment of facts, involve disputed questions of fact that require evidentiary determination and are, therefore, more appropriately adjudicated by the competent statutory authority rather than in constitutional jurisdiction.

The record further indicates that earlier proceedings, particularly C.P. No. D-810 of 2011, were confined to the removal of illegal constructions and did not pertain to structures raised in accordance with the approved building plan. The determination of the legality of the existing constructions squarely falls within the statutory domain and technical expertise of the SBCA.

Moreover, given the existence of multiple and overlapping directions issued in various connected petitions concerning the same property, it is prudent that the DG SBCA undertake a comprehensive and consolidated examination of the matter after hearing all stakeholders, including the petitioners, Respondent No. 4, and the parties to C.P. No. D-811 of 2016. The allegation regarding suppression of the order dated 17.02.2026 also entails factual determination and does not, at this stage, justify reopening the already disposed-of petition.

In view of the foregoing, and while reiterating the directions contained in the order dated 03.02.2025, the DG SBCA is directed to examine the matter

comprehensively and independently, after providing an opportunity of hearing to all concerned parties, including the petitioners, Respondent No. 6, and the parties to C.P. No. D-811 of 2016. The DG SBCA shall determine the legality of the alleged constructions in accordance with the approved building plan, applicable regulations, and consequence thereof and pass a reasoned and speaking order within four (04) weeks from the date of receipt of this order after hearing all concerned. The parties shall extend full cooperation to ensure expeditious disposal.

Accordingly, all the connected petitions and pending applications in petitions stand disposed of in the above terms. Any party aggrieved by the decision of the DG SBCA shall be at liberty to seek appropriate remedy in accordance with law.

Office to place a copy of this order in the connected petitions.

JUDGE

JUDGE

Ayaz Gul