

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI.
C.P No. D-5071 of 2014
(Muhammad Farooq Kasmani v KMC & others)

Before:-
Mr. Justice Adnanul-Karim Memon
Mr. Justice Zulfiqar Ali Sangi

Date of hearing and order:-23.04.2026.

Mr. Altamash Arab, Advocate for Petitioner.
Mr. Khurram Gayas, Advocate for KMC.
Mr. Ali Safdar Depar, AAG.

ORDER

Adnanul-Karim Memon, J Petitioners have filed this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, seeking the following relief:

“A. DECLARE

- (i)** *That the Impugned Notice is arbitrary and is liable to be set aside*
- (ii)** *That the Impugned Notice is void and is liable to be set aside.*

B. RESTRAIN

- (i)** *The Respondent from interfering in the construction that is being carried out on the Subject Property.”*

2. The learned counsel for the Petitioners submitted that Petitioners are engaged in the business of property development. They are each 25% undivided owners of Plot No. F-17, Block IV & V, Dawood Cooperative Housing Society, Karachi, admeasuring 2368 square yards, which they lawfully purchased through a registered sale deed dated 21.02.2013 and subsequent mutation. It was further submitted that after acquiring lawful ownership, the Petitioners commenced construction on the subject property in accordance with law. In the course of construction, as is customary, they temporarily placed steel and construction material on the adjoining road space, which is permissible subject to payment of applicable charges to the Respondent, i.e., Karachi Municipal Corporation (KMC). The counsel contended that the Respondent, through an impugned notice dated 22.09.2014, arbitrarily demanded an exorbitant amount of Rs. 63,000,000 for alleged use of 7,000 square feet of road area for three months. It was argued that the calculation was ex facie unreasonable and baseless, as the actual frontage of the property is only 152.3 running feet, which even if multiplied by reasonable width does not justify the alleged area claimed. It was further submitted that in similarly situated cases within Karachi, the Respondent has charged nominal and

proportionate amounts (approximately Rs. 50,000 to Rs. 60,000 for comparable or even larger projects), demonstrating discriminatory treatment against the Petitioners without any rational basis. The learned counsel argued that the impugned notice is illegal, arbitrary, mala fide, and without lawful authority, as it violates the principles of structured discretion, legitimate expectation, and equality before law. It was further contended that the action of the Respondent is violative of Articles 4, 9, 14, 18, 23, 24, and 25 of the Constitution of the Islamic Republic of Pakistan, 1973, as it is unjust, discriminatory, and deprives the Petitioners of their lawful rights. In these circumstances, it was prayed that the impugned notice be declared void ab initio, set aside, and the Respondent be restrained from interfering in the lawful construction activities of the Petitioners on the subject property.

3. Learned counsel for KMC submitted that that so far as the subject challan is concerned which needs to be revised by the competent authority subject to inspection by the Anti Encroachment Department. The aforesaid exercise needs to be undertaken within three weeks time, after a notice to the Petitioner by the concerned Deputy Director, Anti Encroachment, KMC.

4. In view of the submissions made by learned counsel for the parties and by consent, the instant Constitutional Petition is disposed of in the terms that the impugned notice/challan issued by the Respondent shall be revisited and re-determined by the competent authority of the Karachi Municipal Corporation in accordance with law. For this purpose, the concerned Deputy Director, Anti-Encroachment, KMC shall carry out a proper inspection of the site after issuing due notice to the Petitioners, and complete the entire exercise within a period of three (03) weeks from receipt of this order.

5. It is, however, clarified that the demand of Rs. 6.300 million shall remain suspended and shall not be enforced against the Petitioners until a final decision is taken by the competent authority strictly in accordance with law and after providing proper opportunity of hearing to the Petitioners.

6. The petition stands disposed of in the above terms along with listed and pending applications, if any.

JUDGE

JUDGE