

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
CP No. D-6744 of 2022**

(*Haji Mousam Khan v. Deputy Commissioner West & Others*)

DATE: **ORDER WITH SIGNATURE(s) OF JUDGE(s)**

DIRECTIONS:

1. For Orders on MIT-II Reports dated 18.10.2024, 9.10.2024, 4.9.2024 & 15.6.2024
2. For Hearing of CMA No. 16614 / 2024 (App. u/s 151 CPC)

14-5-2025

Mr. Imran Ahmed, Advocate for Petitioner
Mr. Rameez Lallani, Advocate for Respondent No.6 (SUPARCO)
Mr. Imran Ahmed Khan Abro, AAG, Sindh
Mr. Deedar Hussain Shah, DAG

1. **Sana Akram Minhas J:** The Petitioner claims to be the owner of a plot of land situated in Deh Moach, Sector No.47, Tappo Keamari Town, Karachi, measuring 2 acres ("**Subject Plot**"), which was granted to him by the Land Utilization Department, Government of Sindh ("**LU Department**"), through a registered 99-year Lease Deed dated 3.11.2011 (**Court File Pg. 17, Annex P**). The instant Petition was filed seeking compensation from SUPARCO (Respondent No.6) for the alleged unlawful acquisition of the Subject Plot without initiating or complying with the mandatory procedures prescribed under the *Land Acquisition Act, 1894*. Alternatively, the Petitioner prayed for the grant of an equivalent piece of land in the same vicinity in lieu of the Subject Plot taken over by SUPARCO.
2. The record indicates that prior to the present Petition, the Petitioner had instituted Civil Suit No.423/2012 for *Declaration and Permanent Injunction* against SUPARCO. The Suit was decreed in the Petitioner's favour vide judgment and decree dated 19.11.2016 (**Court File Pg. 47 & 63, Annex P-2 & P-3**), which remain unchallenged by SUPARCO to date. Despite the said decree, the Petitioner was dispossessed from the Subject Plot, prompting him to initiate proceedings in 2015 under the *Illegal Dispossession Act, 2005*, which were also decided in the Petitioner's favour vide orders dated 29.8.2017 and 6.1.2018 (**Court File Pg. 69, Annex P-4**).
3. Reverting to the present Petition, by order dated 20.12.2023 it was disposed of in the following terms:

In the circumstances, we hereby direct that the land acquisition proceedings pertaining to the Petitioner's property shall be completed by the Deputy Commissioner Kemari, within a period of

six months, in terms of the provisions of Land Acquisition Act, 1984 and a report thereafter shall be submitted with the MIT-II of this Court confirming compliance of this order.

4. Pursuant to the above, a Report dated 5.9.2024 (**Court File Pg. 203**) has been submitted by the Deputy Commissioner Keamari, Karachi, wherein it has been stated that:

In compliance of order dated 20-12-2023 passed by the Honourable Court with direction to complete the land acquisition process within 06 months under the provision of Land Acquisition Act 1894. In this regard, it is respectfully submitted that the process of compensation was initiated by this office with SUPARCO by holding a meeting on 31.01.2024, but in response the land acquiring agency (SUPARCO) under the letter dated 12-06-2024 has declined the consideration of the acquisition for subjected land with a advice that the petitioner may be asked to comply with terms and conditions of SRO of SUPARCO as it falls within restricted limits of SUPARCO. (The Copy is enclosed as Annexure A).

5. The reason provided by SUPARCO for its decision not to acquire the Subject Plot, as stated in its letter of 12.6.2024 (**Court File Pg. 205**), was that it considered the estimated compensation amount of Rs.153,888,768/- to be “very high and not economically viable.” SUPARCO’s letter further stipulated that as “the said land falls within SRO restricted limits, therefore, plaintiff be asked to comply with SRO’s terms and conditions”.
6. A Statement dated 14.11.2024 (**Court File Pg. 239**) filed by SUPARCO is also on record, wherein it reiterated that it does not wish to acquire the Subject Plot and sought 120 days to hand over possession, subject to the restrictions outlined in SRO 483(I)/82 dated 29.5.1982 (“**SRO**”).
7. While a copy of the aforementioned SRO is not available on the record (despite the Court’s directive dated 28.10.2024), an incomplete, partial version – consisting only of the first page of the SRO – was produced in Court today by learned Counsel for SUPARCO. Upon being questioned, Counsel for SUPARCO confirmed that the Subject Plot was leased/allotted to the Petitioner by the LU Department and not by SUPARCO. When further asked whether the LU Department and/or the Government of Sindh had executed any title or ownership documents in favour of SUPARCO regarding the land currently in its possession, Counsel for SUPARCO admitted that no such documentation had been executed to date, although discussions with the Government of Sindh were ongoing.
8. SUPARCO’s conduct with respect to the Subject Plot has been inconsistent – initially indicating its intention to lawfully acquire the land, and after the passage of a couple of years, deciding against acquisition on the ground that the compensation amount determined was economically unviable. During

this prolonged period of indecision, the Petitioner has been deprived of the use and enjoyment of the Subject Plot – as noted in paragraph 2 above, the Petitioner first initiated legal proceedings against SUPARCO in 2012, through Civil Suit No.423/2012. Now that SUPARCO has finally resolved to return possession of the Subject Plot, it seeks to do so while imposing conditions it is not entitled to impose, particularly in the absence of any title or legal authority – both over the Subject Plot and over the land in SUPARCO's possession. Since the Subject Plot was allotted to the Petitioner by the LU Department, he remains bound only by the terms and conditions stipulated by the said Department, and not by any unilateral stipulations imposed by SUPARCO.

9. In light of the foregoing, any condition sought to be imposed by SUPARCO upon the Petitioner regarding the use of the Subject Plot – which legally belongs to the Petitioner – is without legal basis and is therefore untenable. If SUPARCO believes that the aforesaid SRO imposes valid restrictions on the use of surrounding lands, including the Subject Plot, and that it is legally entitled to enforce such restrictions, it may approach the competent court of law or forum to establish the applicability and enforceability of those restrictions through appropriate legal means, while arraying the affected persons, including the Petitioner, as necessary parties.
10. Consequently, since the 120-day period sought by SUPARCO for handing over possession of the Subject Plot (as noted in paragraph 6 above) has already lapsed, SUPARCO is directed to hand over possession of the Subject Plot to the Petitioner **within thirty (30) days** from the date of this order, without imposition of any conditions not provided in the land grant terms of the LU Department. As observed in paragraph 9 above, SUPARCO shall remain at liberty to pursue appropriate remedies, if so advised, before the competent forum in relation to the enforcement of any SRO-based restrictions.
11. As the Report dated 5.9.2024 (**Court File Pg. 203**), submitted in compliance of order dated 20.12.2023 has been filed, the listed application (i.e. CMA No.16614/2024) along with the MIT-II report(s), stand **disposed of** in the above terms.

JUDGE

JUDGE