ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-5587 of 2026
(Shabbir Z. Kagazwala & others versus Sindh Building Control Authority)

Date	Order with signature of Judge

Before:
Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Muhammad Jaffer Raza

Date of hearing and order: 09.9.2026

Mr. Muhammad Ali Lakhani, advocate for the petitioners
M/s Amanullah and Dhani Bux Lashari advocates for the respondent SBCA

ORDER

Adnan-ul-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: -

> *i. Issuance of a Writ of Certiorari, or any other direction, order, or writ, as may be deemed necessary, annulling the Respondent's Notice dated 14.07.2026, bearing Reference No. SBCA/DD/District South/2026/746, and Letter dated 28.07.2026, bearing Reference No. SBCA/D.D (District South)/2026/887;*
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> *ii. Issuance of a Writ of Mandamus, or any other direction, order, or writ, as may be deemed necessary, directing the Respondent to process the Petitioners' pending requisition for grant of approval;*
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> *iii. Issuance of a Writ of Prohibition, or any other direction, order, or writ, as may be deemed necessary, restraining the Respondent (including persons acting under it, through it, and / or on its behalf) from taking adverse and / or coercive action(s) against the Petitioners and / or Plot No. CL-1/1, situated on the intersection of Dr. Ziauddin Ahmed and Elander Road, located in Civil Lines Quarters, Karachi;*

2. The learned counsel for the petitioners submitted that the petitioners are co-owners of Plot No. CL-1/1, Civil Lines Quarters, Karachi, commonly known as "Saifee House," and that the property's earlier declaration as protected heritage had been set aside by this Court, with directions for fresh consideration in accordance with law. He contended that no fresh lawful enlistment proceedings had since been undertaken, while the existing structures had substantially collapsed and no longer warranted classification as dangerous. Counsel further argued that, despite this position, the respondent refused to process the petitioners' building-plan application on the ground that Heritage Department clearance was required and subsequently, without prior notice or hearing, again declared the property dangerous through the impugned notice. Relying upon the judgment in *Karachi Property Investment Company (Pvt.) Ltd. v. Government of Sindh* (**PLD 2017 Sindh 690**), counsel maintained that the respondent's refusal was arbitrary and contrary to the applicable statutory and regulatory framework, particularly as Chapter 15 of the KB&TP Regulations had already been held ultra vires. He therefore sought annulment of the impugned notice and letter, directions to process the petitioners' pending construction application in accordance with

law, and protection against any adverse or coercive action in the intervening period.

3. Learned counsel for the SBCA submitted that, pursuant to the inspection and recommendations of the Technical Committee on Dangerous Buildings (TCDB), he submitted that that the façade/structure is in a ruinous and dilapidated condition, with major structural cracks, falling debris, and rendering it unsafe for human habitation. It is urged that, in view of these findings, the case be referred to the Heritage Department for appropriate action in accordance with applicable rules. Consequently, the SBCA issued a final notice under Section 14 of the Sindh Building Control Ordinance, 1979, directing the occupants to vacate the premises within seven days, failing which the Authority would take necessary action for their safe ejectment, as the building posed an imminent threat to life and property.

4. We have heard the learned counsel for the parties and perused the record with their assistance.

5. Under the provisions of the Sindh Building Control Ordinance, 1979, particularly sections relating to dangerous buildings, SBCA is legally empowered to declare a building dangerous and to order its evacuation or demolition if the structure poses a risk to human life. The paramount consideration in such matters is the safety of human life and property, which overrides private rights. It is a settled law that where a building is declared dangerous by the competent technical forum, this Court, in constitutional jurisdiction, does not sit as an appellate forum over technical findings unless the same are shown to be mala fide, without jurisdiction, or patently illegal. However, it has been strongly emphasized that the building is a protected heritage building; therefore, any demolition or structural alteration cannot be carried out without following the procedure prescribed under the Sindh Cultural Heritage (Preservation) Act 1994 and without approval of the Heritage Department. Thus, the matter requires coordination between SBCA and the Heritage Department if the subject building is a protected heritage building before taking final action.

6. In the case of Ardeshir Cowasjee v. Karachi Building Control Authority (PLD 1999 SC 288), the Supreme Court held that in matters relating to dangerous buildings and heritage buildings, the authorities must act strictly in accordance with law and after due process, and the safety of public life is the foremost consideration. Similarly, in Human Rights Case No. 1-K of 2006 (PLD 2007 SC 578), the Supreme Court emphasized that no commercial or private interest can be allowed to endanger human life, and dangerous buildings must be dealt with strictly in accordance with law.

7. The ratio decidendi of the judgment cited by the learned counsel for the petitioner rests on the fundamental principle that statutory discretion must be structured, reasoned, and exercised strictly within the boundaries of its parent legislation, particularly when state action infringes upon constitutionally guaranteed property rights. This Court held that the power to declare private property as a protected heritage under the Sindh Cultural Heritage (Preservation) Act, 1994 belongs exclusively to the government, acting upon the deliberate, independent recommendations of the statutory Advisory Committee. This authority cannot be unilaterally outsourced or mechanically delegated to non-statutory third parties, nor can it be exercised as an unreasoned, blanket endorsement of an external list. This Court ruled that where a statute confers power that severely restricts a citizen's fundamental right to acquire, hold, and dispose of property under Articles 23 and 24 of the Constitution, the executive bears a heavy burden to prove its actions are objective and guided by formally notified rules. Furthermore, the judgment lays down the binding rule that secondary legislation cannot usurp the domain of specialized laws. This Court struck down Chapter 15 of the Karachi Building and Town Planning Regulations, 2002, holding that regulations framed under the Sindh Buildings Control Ordinance, 1979, a law distinctly purposed for building control and town planning, cannot legally govern or restrict heritage properties. Because the Heritage Act operates as a special, self-contained law with its own mechanism for preservation and an explicit overriding effect, any attempt by the building control authority to assume jurisdiction over heritage sites through its own regulations is fundamentally ultra vires. Finally, this Court cemented the mandatory application of natural justice in heritage preservation efforts. The ratio of the judgment provides that an owner cannot be deprived of the economic utility of their property through a heritage declaration without prior notice, a meaningful opportunity to be heard, and the state's strict compliance with procedural mandates like official gazette publication. Without published criteria outlining what objectively constitutes historical or cultural value, an unguided restriction on private ownership by the state is legally void.

8. In view of the above facts and law and ratio of the judgment cited by the learned counsel for the petitioner, we are of the view that the declaration of the building as dangerous by the technical forum does require immediate attention by the competent authority. However, the authorities are directed to proceed strictly in accordance with law, particularly with reference to the heritage status of the building, if any, and keeping in view the judgment in *Karachi Property Investment Company (Pvt.) Ltd. v. Government of Sindh* as discussed supra.

9. Consequently, the directions are issued to SBCA and the Heritage Department shall jointly sit together and decide the fate of the subject building/

now claiming to be an open plot in accordance with law and judgment in *Karachi Property Investment Company (Pvt.) Ltd. v. Government of Sindh* within one month, by providing a meaningful hearing to the owner/petitioner, and if the building is declared as heritage, the appropriate precautionary steps shall be taken in accordance with law, but again say in terms of the ratio of the decision in the aforesaid case. If the building is to be restored/strengthened, the Heritage Department may pass appropriate orders in accordance with law.

10. The petition along with pending application(s) stands disposed of in the above terms.

A copy of this order be communicated to all concerned for immediate compliance.

JUDGE

JUDGE

Zahid/*