# IN THE HIGH COURT OF SINDH AT KARACHI

## Constitution Petition No. D-2364 of 2012

**Present:**
**Mr. Justice Riazat Ali Sahar**
**Mr. Justice Ali Haider 'Ada'**

**[ Works Co-operative Housing Society Ltd. Vs. Karachi Metropolitan & another ]**

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| Date of hearing | : | 29.10.2026 |
| Date of decision | : | 29.10.2026 |
| Petitioner | : | Through Mr. Noor Muhammad, Advocate. |
| Respondent No.2 | : | Through M/s. Anwar Khalid & Khurram Ghayas, Advocates. |
| Respondent SBCA | : | M/s. Dhani Bux Lashari & G. Akbar Lashari, Advocates. |
| The State | : | Through Mr. Zohaib Zulfiqar Sarki, Addl. A.G., Sindh. |

## O R D E R

**RIAZAT ALI SAHAR, J.** Through the instant Constitutional Petition filed under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the Petitioner, Works Co-operative Housing Society Ltd., seeks a declaration that the rejection of its proposed Layout Plan dated 03.03.2011, pertaining to land measuring 27.5 acres situated in Block 4, Scheme 36, Gulistan-e-Jauhar, Karachi (hereinafter referred to as the "subject land"), is illegal, arbitrary, mala fide and without lawful authority. The Petitioner further seeks directions to the Respondents to approve the proposed Layout Plan and to restrain them from taking any adverse or coercive action in respect of the subject land.

2. Briefly, the case of the Petitioner is that it is a Co-operative Housing Society registered on 26.05.1964 under the Co-operative Societies Act, 1925, and is engaged in the development of residential plots and provision of allied amenities to its members. It is contended that the erstwhile Karachi Development Authority (KDA) allotted land measuring approximately 350

acres to the Petitioner in the year 1969, out of which 27.5 acres, situated in Block 4, Scheme 36, Gulistan-e-Jauhar, Karachi, constitute the subject matter of the instant Petition. According to the Petitioner, following protracted litigation, possession of the subject land was handed over to it by the KDA on 16.04.1981, pursuant to an order of the Honourable Supreme Court, along with a provisional drawing dated 24.03.1981 depicting 407 residential, commercial and amenity plots. It is asserted that, acting upon the said drawing, the Petitioner allotted plots to its members and undertook development works, including construction of roads and provision of water supply and sewerage facilities, which were substantially completed by 1995.

3. It is further contended that, upon completion of the development works, certain discrepancies were noticed in the provisional drawing, particularly concerning the dimensions of plots and the alignment and width of internal roads and passages. According to the Petitioner, the actual physical development at the site rendered strict implementation of certain dimensions reflected in the provisional drawing impracticable. Consequently, the Petitioner approached the concerned authorities from May 2004 onwards, seeking approval of a revised layout plan corresponding to the existing ground position. In this regard, three proposed layout plans were successively submitted, namely, the plan dated 19.05.2004, rejected vide letter dated 12.11.2009; the plan dated 09.06.2010, rejected vide letter dated 22.02.2011; and the proposed Layout Plan dated 03.03.2011, which was rejected by Respondent No.2 vide letter dated 31.10.2011.

4. The principal objection raised in the rejection letter dated 31.10.2011 was that the proposed layout plan adversely affected the planning of a clinic and adjoining plots on account of the elimination of a 10-feet-wide lane. The Petitioner maintains that the said lane was merely an anomaly in the provisional drawing and could not physically be provided in view of the existing

dimensions and development at the site. It is further asserted that the proposed layout plan substantially conforms to the original KDA drawing and does not alter the number or sizes of the plots, but merely seeks rectification of discrepancies arising from the actual physical position. The Petitioner claims that the continued non-approval of the proposed layout plan has caused hardship to its members and prevented the issuance of site plans to certain allottees. Despite repeated representations, meetings and legal notices, the grievance allegedly remained unresolved, compelling the Petitioner to invoke the constitutional jurisdiction of this Court.

5. The principal grounds urged in support of the Petition are that the rejection of the proposed Layout Plan dated 03.03.2011 is arbitrary, unjustified and without proper application of mind; that the provisional KDA drawing was neither a finally sanctioned nor a notified layout plan and, therefore, was amenable to modification in accordance with the applicable planning laws and actual site conditions; and that the concerned authorities failed to undertake a proper physical inspection or adequately consider the technical explanations furnished by the Petitioner's Town Planner. It is further contended that the continued refusal to approve the proposed layout plan, without properly addressing the discrepancies pointed out by the Petitioner, is contrary to law and prejudicial to the legitimate interests of the Society and its members.

6. On the other hand, the Sindh Building Control Authority (SBCA), in its report dated 04.02.2013, submitted pursuant to a Court call, stated that the controversy primarily concerns approval of the layout plan, which, at the relevant time, fell within the jurisdiction of the Master Planning Group of Offices (MPGO) of the Karachi Metropolitan Corporation (KMC). It was further stated that the SBCA is concerned with approval of building plans in accordance with duly approved layout plans and that, in the absence of an approved layout plan, no building plan could be sanctioned. The SBCA also

reported that no building plan concerning the subject land had been submitted to it and that, according to its record, the site was lying vacant without any construction thereon. It accordingly maintained that no substantive relief had been sought against it and that the matter required consideration by the competent Master Planning authority.

7. Subsequently, the SBCA filed a short written statement dated 15.10.2026, reiterating that it is merely a proforma party to the instant proceedings and has no statutory authority to approve or reject the layout plan in question. It has specifically contended that matters relating to master planning, preparation and approval of layout plans fall within the jurisdiction of the Sindh Master Plan Authority (SMPA)/Sindh Master Plan Department or the authority legally entrusted with such functions. The SBCA has further clarified that its functions under the Sindh Building Control Ordinance, 1979, primarily relate to regulation of building construction, approval of building plans and action against unauthorized construction. Reference has also been made to the subsequent institutional changes and the proceedings before this Court, including the order dated 18.01.2024, concerning the statutory framework governing the Sindh Master Plan Department. It has accordingly maintained that, having neither rejected the proposed layout plan nor exercised any authority in respect thereof, no cause of action survives against it.

8. We have heard the learned counsel for the parties and carefully examined the material available on record, including the report dated 04.02.2013 and the subsequent written statement dated 15.10.2026 filed by the SBCA.

9. The controversy involved in the instant Petition essentially revolves around the rejection of the proposed Layout Plan dated 03.03.2011 in respect of the subject land. The grievance of the Petitioner is that the provisional drawing supplied by the erstwhile KDA contained certain discrepancies which, owing to

the development subsequently undertaken at the site, could not be implemented in their original form. According to the Petitioner, the proposed layout plan was intended merely to rectify those discrepancies without materially altering the original planning scheme. The concerned authority, however, rejected the proposed plan primarily on the ground that elimination of a 10-feet-wide lane would affect the planning of a clinic and adjoining plots. Whether the alleged discrepancies actually exist, whether the proposed modifications are technically feasible and permissible under the applicable planning laws, and whether the objections raised by the concerned authority are justified are matters requiring examination of the original planning record, relevant technical material and existing physical conditions at the site.

10. It is pertinent to observe that the SBCA has consistently maintained that it is not the competent authority to approve or reject the proposed layout plan. Its report dated 04.02.2013 identified the Master Planning Group of Offices of the KMC as the authority concerned, whereas its subsequent written statement dated 15.10.2026 refers to the Sindh Master Plan Authority/Sindh Master Plan Department in view of the subsequent institutional changes. Thus, the principal controversy is required to be examined by the authority presently vested with lawful jurisdiction over approval and modification of layout plans. The determination of such matters necessarily involves technical scrutiny and the exercise of statutory discretion, which ordinarily falls within the domain of the competent planning authority rather than this Court in the exercise of constitutional jurisdiction.

11. It is equally well settled that, while exercising jurisdiction under Article 199 of the Constitution, this Court does not ordinarily substitute its own assessment for that of a competent statutory authority in matters involving technical expertise and administrative discretion, unless the impugned action is shown to be unlawful, arbitrary, mala fide or otherwise contrary to the

governing statutory framework. In the present case, the controversy cannot appropriately be resolved merely on the basis of the rival assertions without examination of the original KDA drawing, the proposed layout plan, the objections recorded by the concerned authority and the actual physical position of the subject land. Moreover, any proposed alteration affecting roads, passages, amenity plots or the rights of existing allottees must necessarily be examined in accordance with the applicable law and planning regulations. Accordingly, we are of the considered view that the matter warrants fresh consideration by the competent Master Planning authority rather than issuance of a direct judicial command for approval of the proposed layout plan.

12. In view of the foregoing discussion, and without expressing any opinion on the merits of the Petitioner's claim or the legality of the proposed modifications, we deem it appropriate to dispose of the instant Petition with a direction to the Senior Director, Sindh Master Plan Authority (SMPA), or the officer presently exercising the corresponding statutory functions, to examine and decide the Petitioner's case afresh, strictly in accordance with law, applicable rules, regulations and prescribed policy. While undertaking such exercise, the competent authority shall consider the provisional KDA drawing dated 24.03.1981, the proposed Layout Plan dated 03.03.2011, the objections contained in the rejection letter dated 31.10.2011, the relevant planning record and the technical explanations furnished by the Petitioner. If considered necessary, a physical inspection of the subject land may also be undertaken through the concerned technical officers. The Petitioner, as well as any other person whose rights or interests may be directly affected by the proposed modifications, shall be afforded an opportunity of hearing before a final decision is taken.

13. The aforesaid exercise shall be completed within sixty (60) days from the date of receipt of a certified copy of this order, through a reasoned and

speaking order, which shall be communicated to the Petitioner. It is clarified that this order shall not be construed as conferring any right upon the Petitioner to obtain approval of the proposed layout plan contrary to the applicable law, nor shall it be treated as validation of any unauthorized alteration, encroachment or construction, if any, existing at the site. The competent authority shall remain at liberty to take an appropriate decision strictly in accordance with law, uninfluenced by any observation made herein.

14. With the foregoing observations and directions, the instant Constitutional Petition stands **disposed of**, along with all pending application(s), if any. Let a copy of this order be transmitted to the Senior Director, Sindh Master Plan Authority (SMPA), for information and necessary compliance.

**JUDGE**

**JUDGE**

M.Khan