IN THE HIGH COURT OF SINDH AT KARACHI

Constitution Petition No. D-8753 of 2018

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

[Mst. Shameem Fatima & another Vs. D.G. S.B.C.A. & others]

Date of hearing	:	26.10.2026
Date of decision	:	26.10.2026
Petitioner	:	Through Mr. Muhammad Shoaib, Advocate.
Respondent No.1-2	:	Through M/s. Dhani Bux Lashari & Rafique Ahmed Bhanbhro, Advocates.

O R D E R

RIAZAT ALI SAHAR, J. The instant matter is an old one and pertains to the year 2018. Since its inception, the Petitioner has remained absent, and the petition has not been pursued by her. However, record reflects that the instant Constitutional Petition filed under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the Petitioners seek cancellation of the approved building plan in respect of Residential Plot No. 45/14, Firdous Colony, Gulbahar, Karachi, admeasuring 300 square yards, situated in Firdous Co-operative Housing Society, Karachi (hereinafter referred to as the "subject plot"). The Petitioners further seek directions to Respondent Nos. 1 and 2, namely the concerned authorities of the Sindh Building Control Authority (SBCA), to demolish the construction allegedly raised in violation of the applicable building laws and regulations, and to restrain Respondent Nos. 3 and 4 from carrying out any further unauthorized construction over the subject plot.

2. Briefly, the case of the Petitioners is that Petitioner No. 1, Mst. Shameem Fatima, is an elderly widow, aged about 81 years, and the lessee of adjoining House No. 44/14, Firdous Colony, Gulbahar, Karachi, whereas Petitioner No. 2 is her real son and duly constituted attorney. It is contended that Respondent Nos. 3 and 4, who are real brothers and engaged in the construction business, demolished the previously existing ground-plus-one-storey building over the subject plot and commenced construction of a ground-

plus-three-storey building comprising multiple portions, allegedly in violation of the sanctioned building plan, the Sindh Building Control Ordinance, 1979, and the Karachi Building and Town Planning Regulations, 2002. According to the Petitioners, the construction includes unauthorized additional floors, excessive projections (chajjas), encroachment upon the adjoining street, construction within compulsory open spaces (COS), excess covered area and an alleged change in the nature and use of the building. It is further asserted that, despite repeated requests, Respondent Nos. 3 and 4 failed to produce the sanctioned building plan, while the concerned officials of the SBCA also failed to provide satisfactory information or take effective action. The Petitioners submitted written complaints dated 26.11.2018, received by the concerned offices on 28.11.2018, along with photographs depicting the alleged violations. However, as no effective remedial action was allegedly taken, they approached this Court through the instant Petition.

3. Conversely, Respondent No. 1/SBCA has submitted comments along with a report through the Deputy Director, Nazimabad Town, Karachi. According to the report dated October 2026, the owner of the subject plot submitted a proposed building plan, which was approved by the Authority in the name of Hafeez A. Tatari vide letter dated 24.05.2018. The report indicates that the sanctioned construction was restricted to ground-plus-one floor; however, ground-plus-three upper floors have been constructed at the site. The report further identifies certain deviations, including construction within compulsory open spaces, excess covered area and changes in the sanctioned planning. It is also stated that a show-cause notice was issued by the Authority in respect of the violations, whereas the building presently existing at the site stands occupied.

4. We have heard the learned counsel for the parties and examined the material available on record.

5. The principal grievance of the Petitioners is that Respondent Nos. 3 and 4 have raised construction beyond the sanctioned building plan and that the SBCA has failed to discharge its statutory obligations despite receiving complaints as far back as November 2018. However, the report submitted by the SBCA reflects that the Authority has taken cognizance of the alleged violations and issued a show-cause notice. More importantly, the report itself identifies certain deviations from the sanctioned building plan. Thus, although the assertion that the Authority has entirely ignored the matter is not borne out

by the record, the report nevertheless raises questions regarding compliance with the applicable building laws and the extent of enforcement action taken by the Authority.

6. It is a settled principle that every construction must conform to the sanctioned building plan and the applicable building laws and regulations. Any unauthorized addition, alteration or deviation is liable to be examined and dealt with by the competent statutory authority in accordance with law. Nevertheless, the existence of alleged violations does not automatically justify an order for cancellation of the entire sanctioned building plan or demolition of the complete structure, particularly where the nature and extent of such violations require technical examination, verification of the sanctioned record and determination by the competent authority after providing an opportunity of hearing to the affected persons.

7. In the present case, the Petitioners have primarily relied upon their complaints dated 26.11.2018 and photographs allegedly depicting the unauthorized construction. Although these documents may provide a basis for initiating proceedings before the competent authority, they cannot, by themselves, establish that the entire building is unauthorized or liable to demolition. Such a determination necessarily requires examination of the original sanctioned plan, the existing construction, the extent of deviations and the applicable statutory provisions. This exercise falls primarily within the jurisdiction and technical competence of the SBCA.

8. It is, however, significant that the SBCA, in its own report, has acknowledged certain deviations from the sanctioned building plan. Such acknowledgment cannot be treated as inconsequential, nor can the mere issuance of a show-cause notice be regarded as sufficient compliance with the statutory obligations of the Authority. The issuance of a notice is only one step in the enforcement process, and the competent authority remains under an obligation to bring the proceedings to their lawful conclusion. Nevertheless, the report dated 26.10.2026 does not establish that a final determination has been made by Sindh Building Control Authority regarding the precise extent of unauthorized construction or that the entire structure is liable to be demolished. In the absence of such determination, this Court would not be justified in issuing a blanket direction for demolition of the complete building.

9. Similarly, the allegations relating to commercial use, encroachment upon the adjoining street, excessive projections and construction within compulsory open spaces require verification with reference to the sanctioned building plan and the relevant statutory record. These matters involve factual and technical questions which cannot appropriately be resolved merely on the basis of disputed assertions made in constitutional proceedings. The competent authority is required to examine these aspects independently and take appropriate action wherever violations are established.

10. It is well settled that the jurisdiction of this Court under Article 199 of the Constitution is discretionary and is ordinarily exercised where infringement of an established legal right, unlawful exercise of authority or failure to perform a statutory duty is demonstrated. Such jurisdiction is not intended to substitute the technical assessment of the competent statutory authority or to bypass the procedure prescribed under the relevant building laws. At the same time, the existence of a statutory mechanism does not absolve the concerned authority of its obligation to enforce the law, nor does the mere initiation of proceedings amount to their lawful conclusion.

11. In the circumstances of the present case, we are of the considered view that the Petitioners have failed to establish sufficient grounds for the extraordinary relief of cancellation of the sanctioned building plan or demolition of the entire structure through the instant Constitutional Petition. The question whether particular portions of the building have been constructed unlawfully, and what action is warranted against such construction, is required to be determined by the SBCA in accordance with the applicable statutory framework. Consequently, no case for granting the substantive reliefs sought in the Petition has been made out.

12. Accordingly, the instant Constitutional Petition is **dismissed**, along with pending application(s), if any, with no order as to costs. However, it is clarified that the dismissal of this Petition shall not be construed as approval, validation or regularization of any unauthorized construction existing over the subject plot. In case the Petitioner approaches the SBCA through its portal i.e. Smart Complaint Redressal Mechanism (S.C.R.M.) then, SBCA shall remain under a statutory obligation to proceed against any established violations of the sanctioned building plan and the applicable building laws and regulations, after providing due opportunity of hearing to the persons concerned, strictly in

accordance with law. Nothing observed herein shall prejudice the lawful exercise of such authority.

JUDGE

JUDGE

M.Khan