

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Constitutional Petition No. D – 5707 of 2025
(Khurram Vilayat versus Sindh Building Control Authority & others)

DATE

ORDER WITH SIGNATURE OF JUDGES

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

18.08.2026

Mr. Munim Masood, Advocate for the Petitioner.
M/s. Dhani Bux Lashari, Ghulam Akbar Lashari and Amanullah,
Advocates for SBCA.
Mr. Abdul Jalil Zubedi, A.A.G.

ORDER

Adnan-ul-Karim Memon, J. The Petitioner, Khurram Vilayat, filed this Constitutional Petition under Article 199 of the Constitution, seeking protection of his right to raise construction on the subject property in accordance with the approved building plan dated 05.06.2025 and challenging the actions and notices issued by the Respondents.

2. The Petitioner, Khurram Vilayat, claims lawful ownership and peaceful possession of Commercial Plot No. C-23, measuring 528.87 sq. yards, situated in Pak Kausar Cooperative Housing Society, Malir, Karachi. He asserts that the Society's layout plan was duly approved and that the land had historically been excluded from Malir Cantonment limits and brought within KMC jurisdiction. The Petitioner further relies upon the KDA's 1985 determination that Pak Kausar Society was outside the Cantonment limits. The Petitioner states that he intended to construct a healthcare facility on the property and, after fulfilling the requisite legal and regulatory requirements, obtained SBCA's approval of the building plan on 05.06.2025. He also obtained the relevant NOCs, including from the Society, Registrar Cooperative Societies and Cantonment Board Malir, and commenced construction in accordance with the approved plan. According to the Petitioner, officials subsequently visited the site, threatened sealing and repeatedly interfered with the construction despite being provided with the approved plan and other documents. Thereafter, SBCA issued letters requiring an NOC from the Ammunition Depot, Malir Cantonment, and threatened cancellation of the approved plan, demolition and sealing. The Petitioner maintains that the NOC from the competent Cantonment Board had already been furnished and that the Respondents ignored his documentary evidence and continued to threaten coercive action.

3. The Petitioner's counsel contends that the Respondents' demand for a further NOC is unlawful and impossible to comply with, and is being used as a pretext to suspend or cancel his valid building approval. He further points out that the surrounding area is substantially developed with residential and commercial buildings, including petrol pumps and a government hospital, without similar security objections, making the selective action against him arbitrary and discriminatory. He therefore asserts that the Respondents have unlawfully interfered with his vested rights arising from the approved building plan, acted without due process and independent application of mind, and violated his constitutional rights to lawful business, property and equal treatment. He consequently seeks declaration of his right to construct in accordance with the approved plan dated 05.06.2025, quashing of the impugned letters/notices, and permanent restraint against the Respondents from interfering with or taking coercive action against his construction.

4. Learned counsel contended that SBCA, through notice dated 17.11.2025, threatened to recall the approved building plan for want of an NOC from the Commandant, Ammunition Depot, Malir Cantonment, whereas the letter dated 18.12.2024 issued by the Malir Cantonment Board established that the subject plot did not fall within its territorial jurisdiction.

5. On the subject issue, this Court issued notice to SBCA on 25.11.2025, after which comments were filed. However, upon being confronted with the legal position, learned counsel for the Petitioner stated that the Petitioner was/is willing to avail the remedy of appeal under Section 16 of the Sindh Building Control Ordinance, 1979.

6. In view of the foregoing, the controversy essentially concerns the validity of the Respondents' action in seeking to suspend/cancel the Petitioner's already approved building plan on the ground that an NOC from the Commandant, Ammunition Depot, Malir Cantonment, had not been obtained. The record, however, prima facie shows that the Petitioner had obtained approval of the building plan from SBCA on 05.06.2025 and had also produced the NOC dated 18.12.2024 issued by the Cantonment Board, Malir, stating that the subject property did not fall within the Cantonment limits. The Respondents' subsequent demand for another NOC, without first determining the effect of the existing NOC and the territorial jurisdiction over the property, therefore raises a disputed question requiring consideration by the competent statutory forum.

7. At the same time, since Section 16 of the Sindh Building Control Ordinance, 1979 provides a specific statutory remedy of appeal against an order/action of the building control authority, and the Petitioner himself expressed

his willingness to avail such remedy, it would not be appropriate for this Court, in its constitutional jurisdiction, to adjudicate the disputed factual and technical aspects in the first instance. The availability of an efficacious alternate remedy ordinarily warrants restraint in the exercise of jurisdiction under Article 199 of the Constitution, particularly where the competent appellate authority is empowered to examine the legality and propriety of the impugned action after hearing all concerned.

8. Accordingly, the Petition is disposed of alongwith listed / pending applications with the direction that the Petitioner shall avail the statutory remedy under Section 16 of the Sindh Building Control Ordinance, 1979 by filing an appeal before the competent authority and just upon filing, the competent authority of SBCA shall provide due opportunity of hearing to the Petitioner and the concerned Respondents and decide the appeal strictly in accordance with law, preferably within fifteen (15) days from its filing. Until such decision, the parties shall maintain status quo with regard to the subject property and the construction thereon.

JUDGE

JUDGE

Nadeem Qureshi PA