IN THE HIGH COURT OF SINDH AT KARACHI

Constitution Petition No. D-701 of 2020

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

[Tasawwur Ali Khan Vs. Government of Sindh & others]

Date of hearing	:	28.10.2026
Date of decision	:	28.10.2026
Petitioner	:	Through Mr. Ali Zaheer, Advocate.
Respondent No.3	:	Through Mr. Samiullah Soomro, Advocate.
Respondents No.4-5	:	Through Mr. Khursheed Jawed, Advocate.
Respondents No.6-7	:	Through M/s. Dhani Bux Lashari and M. Rafiq, Advocates.
Respondents No.11-13	:	Through Mr. Kashan Ahmed, Advocate.
Official Respondents	:	Through Mr. Abdul Jalil Zubedi, Addl. A.G., Sindh.

O R D E R

RIAZAT ALI SAHAR, J. Through the instant Constitutional Petition, the petitioner seeks directions against the official respondents to take action against the alleged encroachments and unauthorized constructions over Commercial Plot Nos. ST-16, ST-17 and ST-19/1, situated in Sector 16-B, North Karachi Township, and to remove such encroachments in accordance with law. The petitioner has further prayed for an inquiry against the persons responsible for the alleged illegal occupation and for the auction of the subject commercial plots in accordance with the applicable KDA Land Rules.

2. Briefly, the case of the petitioner is that he is a Labour Councillor of Union Council No. 26, Sector 16-B, North Karachi, and has been making efforts to safeguard public property against illegal occupation and encroachment. It is contended that Commercial Plot No. ST-16, measuring 956.66 square yards, Plot No. ST-17, measuring 840 square yards, and Plot No. ST-19/1, situated in Sector 16-B, North Karachi Township, are valuable

commercial properties falling under the control and management of the Karachi Development Authority (KDA). According to the petitioner, certain private persons have unlawfully occupied the subject plots by raising unauthorized constructions and erecting boundary walls without any lawful authority. It is further asserted that, despite repeated representations to the concerned authorities and earlier anti-encroachment operations, the alleged illegal occupation has continued, thereby causing loss to the public exchequer. The petitioner maintains that the subject plots have neither been lawfully allotted nor auctioned in favour of any private person and, therefore, are required to be protected and dealt with strictly in accordance with law.

3. Pursuant to the order dated 18.03.2026 passed by this Court, KDA submitted its compliance report dated 04.05.2026, stating, inter alia, that encroachments over certain commercial plots, namely LS-1 to LS-3 and SA-1 to SA-4, situated in Sector 16-B, North Karachi Township, had been removed after issuance of notices under the Sindh Public Property (Removal of Encroachment) Act, 2010, whereafter physical possession of the said plots was handed over to their respective allottees. The report further disclosed that a dispute relating to possession and construction of boundary walls was already pending adjudication before the learned Xth Senior Civil Judge, Karachi Central, in Civil Suit No. 1638 of 2025. It was also reported that, pursuant to directions issued by the learned Civil Court, police protection was provided during construction of the boundary walls, and a security guard was subsequently deputed at the site. At the time of inspection, no ongoing construction activity was observed.

4. Subsequently, respondents Nos. 6 and 7/Sindh Building Control Authority (SBCA) submitted their latest report dated 23.10.2026, wherein it was stated that, upon inspection, temporary shop structures were found existing over Plot No. ST-16, whereas Plot Nos. ST-17 and ST-19/1 were found vacant, though surrounded by boundary walls. The report further reflects that the subject plots fall under the control of KDA and that the question of alleged encroachments over such properties is governed by the provisions of the Sindh Public Property (Removal of Encroachment) Act, 2010. SBCA has accordingly maintained that the matter falls within the domain of the competent authority responsible for the protection and removal of encroachments from public property.

5. We have heard the learned counsel for the parties and examined the material available on record, particularly the compliance report submitted by KDA and the subsequent report furnished by SBCA.

6. Upon examination of the record, it appears that the controversy essentially revolves around disputed questions relating to the occupation, possession and construction of boundary walls over the subject properties. Significantly, the report submitted by KDA discloses that Civil Suit No. 1638 of 2025 is already pending adjudication before the learned Xth Senior Civil Judge, Karachi Central, wherein the question of possession and construction of boundary walls is stated to be involved. The existence of such proceedings assumes considerable significance, as the determination of the nature and extent of the competing claims, the legality of possession, and the circumstances under which the boundary walls were erected would necessarily require examination of the relevant documentary record and, where necessary, recording of evidence. Such disputed questions of fact cannot appropriately be adjudicated in proceedings under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, particularly when the controversy is already engaging the attention of a competent Civil Court.

7. It is a settled principle of law that constitutional jurisdiction is discretionary and is ordinarily not invoked for the determination of seriously disputed questions of fact requiring a detailed factual inquiry or appreciation of evidence. The extraordinary jurisdiction of this Court cannot be converted into a substitute for ordinary civil proceedings, nor can parallel adjudication be undertaken in respect of substantially the same controversy pending before a competent forum. Any determination by this Court regarding the legality of possession or construction over the subject properties, without a complete examination of the competing claims, may prejudice the rights of the parties and interfere with the proceedings pending before the learned Civil Court. Furthermore, the reports furnished by KDA and SBCA, when read together, do not conclusively establish the precise nature and extent of the alleged encroachments or the legal status of the persons claiming possession. These aspects require determination by the competent forum on the basis of evidence and the applicable law.

8. In the circumstances, we are of the considered view that no case has been made out for exercise of the extraordinary constitutional jurisdiction of this Court under Article 199 of the Constitution. The petitioner cannot seek a

parallel determination of disputed questions of possession and occupation through the instant proceedings when the controversy is already sub judice before the competent Civil Court. Accordingly, the instant Constitutional Petition is **dismissed** as misconceived, along with all pending application(s), if any. However, it is clarified that the observations made herein are confined to the question of exercise of constitutional jurisdiction and shall not prejudice the rights and contentions of the parties before the competent Civil Court, which shall decide the matter independently, strictly in accordance with law. It is further clarified that this order shall not prevent the competent statutory authorities from discharging their lawful duties in respect of any independently established encroachment upon public property, subject to any subsisting order of the competent Court.

JUDGE

JUDGE

M.Khan