

**THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD**

C.P No. D- 444 of 2014

Before:
Mr. Justice Nadeem Akhtar
Mr. Justice Adnan-ul-Karim Memon

Petitioner : Through Zulqarnain Talpur, Advocate.

Respondents : Through Mr. Allah Bachayo Soomro, Addl.A.G,
Sindh along with Qamaruddin Rahupoto
Mukhtiarkar Shahdadpur o/b of D.C Sanghar.

Date of hearing. : 12.12.2019

Date of decision. : 12.12.2019

ORDER

ADNAN-UL-KARIM MEMON, J: - Through this petition, the petitioner has sought direction to District Administration, Shahpur Chakar to secure the amenity plot of Musafir khana constructed at main Bus Stop Shahpur Chakar for facilitating the passengers upon which the private respondents have evil eye to encroach upon it.

2. To ascertain the factual position of the case this Court vide order dated 21.11.2019 directed Deputy Commissioner, Sanghar, to submit a detailed report. Compliance report has been submitted which shows that nobody has encroached upon the amenity plot of Musafir khana and the same is under their possession.

3. Prima-facie the subject land is reserved for Musafir khana which is for the people of area, legal title may vest in the Government, but such title, and the exercise of powers based thereon, is to be exercised in public interest, in accordance with the Constitution and the laws framed thereunder.

4. Similarly, in the case reported as **Ardeshir Cowasjee and 10 others v. Karachi Building Control Authority (KMC), Karachi and 4 others (1999 SCMR 2883)** in somewhat similar facts in respect of a plot which was carved out within a park area, the Hon'ble Supreme Court has held that an amenity plot cannot be used for any commercial purpose.

5. In view of above facts and circumstances of the case, since apparently the property in question is reserved for amenity purpose and as per the dicta laid down by Hon'ble Supreme Court an area earmarked and reserved for an amenity like Musafir khana, cannot be used for any other purposes and when the Deputy Commissioner Sanghar has committed that he shall ensure rebuilding of such Musafir khana on the subject plot as soon as budget is released by the competent authority, this petition stands disposed of by directing the Deputy Commissioner, Sanghar to undertake the said exercise within a period of two months from the date of receipt of this order, and also to ensure that the Musafir khana remains free from all types of encroachers in future.

6. This petition stands disposed of in the above terms with no order as to costs.

JUDGE

JUDGE

Fahad Memon