

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Present:

Mr. Justice Zafar Ahmed Rajput, J.

Mr. Muhammad Faisal Kamal Alam, J.

C.P. No. D-262 of 2014

Petitioner : Haji Jaffar Khan Rind,
through Mr. Rehman Dino Mahesar
Advocate.

Respondents : Province of Sindh and six others
No. 1 to 7. through Mr. Mehran Khan, Assistant
Advocate General.

Respondents : Haji Mirza Hussain and eight others
No. 8 to 16. (Nemo)

Intervenor : Abdul Aziz Memon
through Mr. Abdul Razzak Advocate

Date of hearing : 11.11.2021.
Date of order : 11.11.2021.

ORDER

ZAFAR AHMED RAJPUT, J:- By means of this application, we intend to dispose of C.M.A. No. 27861 of 2021 filed by the petitioner under Order XXXIX, rule 2(3) C.P.C. read with Article 204 of the Contempt of Court Act seeking, inter-alia, legal action against the culprits i.e. builder mafia, who are trying to dispossess the poor residents.

2. Learned counsel for the petitioner contends that this Court passed orders dated 27.10.2014, 23.12.2014 and 31.12.2014 in this petition and order dated 11.05.2015 and 18.05.2015 in C.P. No. D-3902 of 2014 that no fresh construction in Chishti Nagar, NC No. 166, Deh Safooran (Block-10), Gulstan-e-Jauhar, East-Karachi shall be made and thereafter Assistant Commissioner, Gulshan-e-Iqbal, East-Karachi forwarded copies of the said orders to SHO Gulstan-e-Jauhar with direction to stop all kind of

construction activities and to keep strict vigilance; however, the said SHO, who is involved in land grabbing, failed to stop new construction, with the result that the alleged contemnors, namely, Asif Jan Siddiqui and Shahid Baloch with the connivance of SHO Gulstan-e-Jauhar in violation of aforesaid orders of this Court are raising fresh construction in Block-10, Gulstan-e-Jauhar, Karachi; hence, this application has been filed.

3. It appears that the instant petition was disposed of on 31st January, 2014 on the statement of learned counsel for the petitioner that he would be satisfied and would not press this petition if directions are issued to the Commissioner Karachi to decide the complaint made by the petitioner within a period of one month in accordance with law. The Court also directed to furnish compliance report alongwith order passed on the complaint to the MIT-II of this Court. Subsequently on 27th October, 2014 this Court passed order on MIT-II's report directing Deputy Commissioner as well as SHO concerned to ensure that no fresh construction in order to frustrate the directions take place and Deputy Commissioner to scrutinize all the allotments strictly in accordance with law. Thereafter, on 23rd December, 2014 counsel appearing for Board of Revenue requested for further time for completion of the survey and accordingly time was granted with direction that the orders of this Court restraining fresh construction be complied with in letter and spirit by the Deputy Commissioner and SHO concerned. Thereafter the petitioner filed number of applications including contempt application bearing C.M.A. No. 5679 of 2021, which was disposed of by this Court vide order dated 6th October, 2021 and it was thereafter the instant application was maintained on 3rd October, 2021 with vague assertions against the alleged contemnors.

4. On the identical plea as mentioned in the present contempt application, C.M.A. No. 5679 of 2021 was disposed of. Even otherwise, the issue regarding Gulistan-e-Jauhar, has been exhaustively decided by the learned Division Bench of this Court in number of petitions, C. P. No. D – 1608 of 2005, being the leading petition, filed by one Ms. Talat Ejaz versus City District Government, Karachi – ‘Talat Ejaz Case’. The decision of learned Division Bench was upheld by the Honourable Supreme Court. In the said decision, inter alia, it is specifically mentioned that in the entire Gulistan-e-Jauhar, no Goth exists. The said decision was particularly related to Blocks – 4, 6, 7, 10 and 11. The present case of alleged village Chishti Nagar, is claimed to be situated in Block – 10, thus the finding of the above judgment in Talat Ejaz Case, which is maintained by the Apex Court, is applicable here. The said judgment was a judgment in rem as held by this Court in the case of Dr. Arifa Fareed versus Mitha Khan, reported in P L D 2020 Sindh 451.

5. The above factual and legal position is well within the knowledge of present petitioner, yet he opted to continuously file various contempt applications periodically. Hence, this application being devoid of any merit is dismissed accordingly with a cost of Rs.20,000.00.

Above are the reason of our short order dated 11th November, 2021.

JUDGE

JUDGE