

ORDER SHEET  
**IN THE HIGH COURT OF SINDH, KARACHI**  
 C.Ps. No. D-6989 of 2016 & D-6536 of 2021

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Date	Order with signature of Judge
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**C.P No.D-6989 of 2016**

Direction.

1. For order on MIT-II Report dated 13.04.2021.
2. For hearing on CMA No.14620 of 2021.

**C.P No.D-6536 of 2021**

Priority.

1. For order on office objection.
2. For hearing on CMA No.27936 of 2021.
3. For hearing of main case.

**10.11.2021**

Mr. Maqbool-ur-Rehman, Advocate for the Petitioners No.1, 2, 3, 5 to 7, 9 to 12 in C.P. No.D-6536 of 2021.

M/s. Bushra Shah and Shahabuddin Ghouri, Advocates for Petitioner in C.P. No.D-6989 of 2016.

Mr. Shaikh Muhammad Wasim, Advocate for Respondent No.3/ builder/owner in C.P. No.D-6989 of 2016 along with Respondent No.3- Muhammad Waseem (CNIC No.42101-9668933-7).

Mr. Mehran Khan, Assistant A.G.

Mr. Khurram Ghayas, Advocate for SBCA along with M/s. Syed Muhammad Zia, Director South and Benish Shabbir, Director Structure & Secretary, Technical Committee on Dangerous Building, SBCA.

Sub-Inspector-Muhammad Nazeer, P.S. Preedy, Karachi.

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Barrister Uzair Ali Khan, Advocate files Power on behalf of Petitioner No.4 in C.P. No.D-6536 of 2021; learned counsel for Respondent No.3 (*“the builder”*) in C.P. No. D-6536 of 2021 files Statement and Syed Muhammad Zia, Director South S.B.C.A. files Compliance Report in C.P. No. D-6989 of 2016, regarding removal of illegal structure/building works of the building known as Macca Terrace (*“the building”*), which are taken on record.

In view of aforementioned Statement filed by the builder and the Compliance Report, following order is passed to remove/alter the building works carried out in violation of approved plan, so as to bring it into conformity with the Karachi Building & Town Planning Regulation, 2002 (*“Regulations, 2002”*).

- (1). Compulsory Open Space (“**COS**”) of the building on rear and right side to be restored:
  - (a) Rear **COS** to be cleared up to the face of the columns at rear as marked in the sketch enclosed (varies from 6’-6” to 7’-6”). If the required rear **COS** of 10’ is cleared, it will cause damage to the main structure of the building.
  - (b) Right side **COS** of 5’ to be cleared as marked in the sketch. Few columns and beams will be required to be added for stability of the structure.
- (2). Remaining part of the Mezzanine to be removed (Approximately 65% of the Mezzanine has been demolished on 26.10.2021).
- (3). The builder shall make shifting of the Petitioners (“*the allottees/occupants*”) of C.P. No.D-6536 of 2021 within two weeks hereof to the suitable accommodations at his cost including shifting charges and rent for such accommodations and hand over the vacant possession of the building to the Director Structure & Secretary, Technical Committee on Dangerous Building, S.B.C.A. to carryout requisite work of clearing up **COS** with care and caution through an agency of S.B.C.A.
- (4). In case, the builder failed to make shifting of the allottees/occupants within two weeks hereof, the latter shall vacate the premises thereafter within one week themselves and make shifting at the cost of the builder.
- (5). The official of SBCA present before this Court after receiving vacant possession of the building shall carryout requisite work forthwith and preferably conclude the same within a period of one month from the date of receiving possession and restore the building in good habitable condition for the allottees/occupants.
- (6). That after restoring **COS** as per the approved plan and curing other illegality of Arcade area, the SBCA shall issue Completion/Occupancy Certificate in favour of the builder after completing all codal formalities, including regularizing permissible violation/deviation of the approved plan as per Regulation 3-2.20.2 (c) (vi) of the Regulations, 2002.

- (7). Cost incurred on removing/altering the aforementioned building works by the S.B.C.A. and/or its agency shall be deemed to be a tax levied on the builder under section 7-E (3) OF the Sindh Building Control Ordinance, 1979 and be recovered accordingly.

The matter is adjourned **01.12.2021** for submitting the compliance Report with regard to (i) vacating the building and handing over its possession to the official of S.B.C.A. and (ii) in compliance of order dated 01.11.2021 whereby the Director General, SBCA was directed to take action against the concerned officers and officials of the SBCA, who were posted at the relevant time when the alleged construction was made in violation of the approved plan, law, rules and regulations and they failed to check it and ensure the enforcement of law, rules, etc.

JUDGE

JUDGE