

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
C.P. No.D-4107 of 2018

---

|      |                                     |
|------|-------------------------------------|
| Date | Order with Signature(s) of Judge(s) |
|------|-------------------------------------|

---

For orders as to maintainability of petition.

**13.12.2021**

Mr. Khan Muhammad, Advocate for petitioners.  
Mr. Ghulam Akbar Lashari, Advocate for SBCA.  
Mr. Shehryar Mehar, Additional Advocate General a/w  
Ishtiaq Ahmed-Deputy Director District Korangi.

-----

Mr. Ch. Arif Majeed Advocate files memo of appearance as well as counter affidavit on behalf of respondents No.2&3, which are taken on record. Copy of the counter affidavit is supplied to the learned counsel for the petitioners.

The petitioners, who are members of the Christian Community and residing in Qayyomabad, have maintained this petition, inter alia, seeking declaration that they as well as Christian Community are entitled to possess the amenity plot bearing No.690-A for Community Centre, Plot No.690-B for Church in terms of lease deed executed on 09.10.1996, plot bearing No.690 for public park and plot bearing No.691 for school public purposes i.e. to perform/conduct their religious/social/education functions and activities; petitioners also seek declaration that plots bearing No.690-A, 690-B, 690-C, 690-D, 690-E, 690-F, 690-G, 690-H, 690-M, 690-N, 690-P, 690-J, 690-K and 690-I are unlawful, void ab-initio bogus, fictitious and self-created numbers obtained illegally in collusion with officers of respondents No.2&4.

It is alleged that forefather of the petitioners were residing near Kalapul Karachi from where they were forced to vacate their residence and shifted in Qayyumabad on Naiclass No.24, Deh Duch,

Tappo Landhi, where they constructed their houses alongwith aforementioned amenity plots which were regularized vide Marshal Law Order No.110 dated 20.12.1979 on payment of prescribed lease money and ground rent in pursuance to the Government approval dated 03.12.1978. It is further alleged that respondent No.2 (KMC) through its director Katchi Abadi approved plan of Qayyumbad through which in Block "A" some amenity plots were regularized/reserved as the Christian Community had already built their Church including a plot bearing No.690-A which was reserved for Community Centre and an plot No.690-B was leased out in the name of Church on 09.10.1996 while the remaining open land was kept reserved for school purposes as shown on approved map as plot No.691. It is further alleged that the respondent No.11 (Zia ur Rehman) preferred a Suit No.842/1999 before this Court against the DHA and KMC claiming his right in self-created plot bearing No.690-J, alleging in para No.5 of his plaint about the execution of bogus leases in favour of other private respondents in respect of Plot No.690-A to 690-P, wherein the respondent-KMC filed its written statement admitting Plot No.690 as reserved plot for Park while Plot No.690-J as self-created number of non-existence plot in the approved plan. Besides, KMC denied all other leases claiming their documents as bogus, unlawful and fraudulent.

It is matter of record that the Plot No.690-B, Block-A, Qayyumabad is owned by Karachi Diocese through its the then Bishop; namely, Simeon A. Pereira; such fact has been admitted by the respondent/KMC in its counter affidavit to the petition by stating that as per approved layout plan of Sheet No.01, Block-A, Qayyumabad, Katchi Abadi, Korangi Town, Plot No.690-B, reserved for Church, was regularized and leased out admeasuring 1280 Sq.

Yds. in favour of Francis Xavier Church vide Registration No.6721, dated 05.11.1996; however, for rest of the plots it has been stated by the respondent/KMC that the leases in respect of Plot No.690-A to 690-P (16 plots), each measuring 120 Sq. Yds., were granted in accordance with approved layout plan on the basis of constructive physical occupation and on completion of all codal formalities and the same are out of amenity sites of the area.

It is; therefore, an admitted position so far the record is concerned that plot No.690-B is reserved for Church and is the property of Diocese of Karachi, while rest of plots bearing No.690-A to 690-P (excluding plot No.690-B) are owned by the private persons through registered lease deeds. The claim of the petitioners in respect of those plots that the same have been obtained by the private persons/respondents through bogus and managed documents/lease deeds cannot be adjudicated by this Court under its constitutional jurisdiction as a registered instrument can only be adjudged as void or voidable and cancel by a competent Civil Court having jurisdiction after recording pro and contra evidence of the parties. Such exercise cannot be done by this Court in its extraordinary Constitutional jurisdiction under Article 199 of Constitution of Islamic Republic of Pakistan. Hence, this petition is dismissed alongwith pending applications, if any.

JUDGE

JUDGE