

**ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI**

Present:-

Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Aga Faisal

C.P. No.D-4963 of 2021
Muhammad Iqbal & others

Versus

Govt. of Sindh & others

**For date of hearing
& order**

: 06.05.2022

Mr. Amir Raza, advocate for the petitioner
Barrister Zeeshan Adhi, Addl: AG Sindh a/w DSP, Farhat Kamal Khan,
SDPO Surjani, Karachi

ORDER

Muhammad Iqbal Kalhoro, J:- Petitioners claim to be owners of plots admeasuring 80 sq. yards allotted to them by City District Government, Karachi (**CDGK**) in Lyari Expressway Taiser Town, Scheme 45 Karachi established for rehabilitation of persons dislocated on account of construction of Lyari Expressway. Purpose of filing of this petition by them is to seek removal of Khuda Ki Basti Police Post which they allege has been established illegally on their plots. Additional relief of seeking possession of their respective plots was withdrawn by them on the very first date of hearing on 24.08.2021.

2. We have heard learned counsel for the petitioners and learned Addl: Advocate General Sindh, who has disputed title of petitioners over the land and has submitted that petition is not maintainable as it involves factual controversy.

3. A perusal of file shows that petitioners are not the original allottee of the plots but have become owners thereof through transfer orders after allegedly having purchased the same from the original allottees. This project, as stated above, has been introduced by the City District Government, Karachi exclusively for resettlement and rehabilitation of the persons who, for establishment of Lyari Expressway, vacated their respective homes. The original allotment orders, filed today on our asking, verify this fact and further pour forth, as a condition, that the plot is residential and non-transferable. It is not clear as to how in view of this

undefeatable barrier, the original allottees succeeded in selling the plot, and relevant authorities in issuing transfer orders in favour of petitioners.

4. Be that as it may, the comments submitted by the Police Department, the only respondents, show that they have been unsuccessfully asking petitioners to provide address of the original allottees to verify their antecedents and the fact as to whether they were actually displaced from their homes and were thus entitled to allotment at the first instance. Besides, a determination whether or not the police post is established on the alleged plots has not been made yet by any forum. Hence no material is available before us to predicate our decision on on the issue and determine the case as pleaded. Pendency of an enquiry into locating original allottees and verifying their status as displaced persons and their competence to transfer/sell the plots coupled with impending determination into exact location of the police post has taken virtually the case from purview of article 199 of the Constitution. For these questions to be replied require evidence, which exercise admittedly cannot be undertaken by this court under constitutional jurisdiction. This being the position, we find no merits in this petition and accordingly dismiss it leaving the petitioners, nonetheless, at liberty to move proper forum for redressal of their grievances, if any.

JUDGE

JUDGE

Rafiq/P.A.