

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

**Before:**

Mr. Justice Muhammad Iqbal Kalhoro  
Mr. Justice Adnan-ul-Karim Memon,

**CP No. D- 1019 of 2016**

Anjuman-e-Imamia  
and others

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Petitioners

***Versus***

Province of Sindh and others

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Respondents

Mr. Abdul Aziz Advocate holds brief for Mr. Samiullah Rind,  
advocate for petitioners

Mr. Zaheeruddin Sehto, Advocate for SBCA

Mr. Allah Bachayo Soomro, Addl. A.G.

Date of hearing  
and Order

:

**01.09.2022**

**ORDER**

The case of the petitioner-association is that in front of main entrance of Qadamgah, there is a private land / plot where the private respondent Aziz Ahmed son of Aleemuddin had started construction of residential and Commercial Project with name and style of 'Aziz Heights' and as such layout plan was submitted in the office of respondent No.3, which was approved up to 4<sup>th</sup> floor; that in ground floor the construction of shops in front of main entrance of Qadamgah will be dangerous with regard to security of visitors and followers of Qadamgah; and, the said layout plan was approved by respondent No.3 without looking into the ground realities of security and inspection of site; and without taking into consideration the law and order situation; that the building plan was/is also inconsistent with the approved plan of the building and such layout plan was/is liable to be amended as revised layout plan; that number of times the petitioner association approached the respondent No.6 but he did not pay any heed.

2. We have noticed that after filing the instant petition, notice was issued to respondent No.6 and he was directed to continue the construction under the

approved building plan. Subsequently, as per petitioner, the subject construction is against the layout plan / approved plan; however, the aforesaid stance has been refuted by respondent No.6 with the assertion that he has been erecting the construction strictly under the layout plan / approved building plan.

3. Keeping in view the above contradictory stance of the parties H.D.A & Sindh Building Control Authority were directed to constitute a committee to visit the site and ensure that the subject plaza was / is being erected as per layout and approved plan. In compliance with the above order, the Additional Registrar of this court as well as the committee constituted submitted a report showing some violations in the construction. However, on 9.8.2017, the Engineer and Deputy Controller of the area were directed to re-inspect the plot and submit report explaining the violation including but not limited to the covered area, C.O.S. Foot Print, and F.A.R. and in case the subject construction appeared to be violating all such mandatory requirement prompt action should be taken with a compliance report to this court; and, in compliance of said order, respondent No.6 submitted revised building plan for regularizing the violation which was made against approved building plan and he paid advance challan/fee; and, respondent No.6 demolished the construction and also removed the violation.

4. We have been informed that the revised plan submitted has been approved by SBCA under Karachi Building & Town Planning Regulations 2002 and regularized the violation i.e. covered passage 10 ft wide over the east side after recovering the amount of COC (Compounding Offence Charges).

5. On 10.3.2020 it was observed by this court that the petitioner was adamant to oppose the construction in pursuance of the approved plan dated 8.3.2016 i.e. basement + ground + 04 floors. He further did not object to the extent of floors constructed by respondent No.6; however, he submitted that there is a violation concerning certain extensions in the shape of balconies and Chhajjas; when counsel for SBCA categorically stated that all those minor/major violations have been removed which were seriously denied by the counsel for the petitioner and further the petitioner counsel submitted that the quality of construction is not up to the mark and the building may collapse at any time, hence by consent of the parties concerned Structural Engineer of SBCA and Deputy Director of the concerned zone were directed to inspect the building and report and also to issue stability certificate if the construction so demand.

6. Today, Mr. Zaheeruddin Sehto, learned counsel for respondent-SBCA has referred to the compliance report filed in the year 2020 and submitted that in compliance with this Court's order dated 10-08-2020, the site was inspected on 18-08-2020, in presence of the petitioner and respondent no.6 (Aziz Ahmed), as well as Mr. Badar Ali Baloch, Licensed Structural Engineer of SBCA; that during site visit it was observed that the RCC structure of the said building namely "Aziz Heights"

for Basement + Ground + 4th Floors was / is constructed; at Ground, Floor Shops were/are approximately completed and over 1st to 4th floor Brick Masonry Work was incomplete and under progress; and, it was also found that the position/ location of one column at the corner of the building towards the South side of the building (Staircase side) is 4" (Four inches) out of alignment during constructions at first floor. On the 2nd to 4<sup>th</sup> floors orientation of this column was changed and the placing of some internal columns of the building was changed; no encroachment was found over the street area towards south side street; an RCC projection 2'6" x 81'-0" was/is constructed towards East side (1st floor to 4th floor) and at ground floor, the brick masonry walls were constructed towards the south side in front of shops in Arcade, against the revised approved plan; that after site inspection of the project "Aziz Heights", Mr. Badar Ali Baloch, Licensed Structural Engineer of SBCA also submitted his report for stability of this project. The owner of the building submitted a building plan for approval/regularization of violations, which are still under scrutiny.

7. In the light of the above report, let SBCA take prompt action under the law after hearing the parties within two weeks; this petition is disposed of in terms of the compliance report; however, if the cause of action still subsists, the petitioner may take resort of court of plenary jurisdiction, and the lis, if filed by the aggrieved party, shall be decided under the law as this petition cannot be stretched furthermore on the allegations and counter allegations of the parties.

JUDGE

JUDGE