

IN THE HIGH COURT OF SINDH AT KARACHI

Present:
Muhammad Junaid Ghaffar, J.
Agha Faisal, J.

C P D 2395 of 2015 : Shaukat Ali & Others vs.
Federation of Pakistan & Others

C P D 7957 of 2015 : Muhammad Ameen & Another vs.
Federation of Pakistan & Others

For the Petitioners : Mr. Malik Khushhal Khan, Advocate

For the Respondents : Mr. Khaleeq Ahmed
Deputy Attorney General

Mr. M. Sarfaraz Sulehary, Advocate

Date/s of hearing : 12.10.2022

Date of announcement : 12.10.2022

ORDER

Agha Faisal, J. The petitioners were licensees in respect of certain immovable property and their licenses expired / were determined back in 2013 / 14. Notices per section 3(1) of the Port Authorities Land & Building (Recovery of Possession) Ordinance 1962 ("Ordinance") were issued thereto in 2015, however, the same were challenged in *writ jurisdiction* and *ad interim orders* obtained. The petitioners remain in occupation of the relevant property till date on the basis of the *ad interim* orders subsisting till date.

2. The petitioners' counsel admitted that any license rights of the petitioners had long since expired and that no express renewal of the allotment letters ever took place. It was also admitted that the impugned notices *inter alia* alleged wrongful use of the property and any dispute in such regard could not be resolved in writ jurisdiction; however, failed to impress upon us as to why the petitioners had elected to invoke the writ jurisdiction in the first place.

3. Per respondents' counsel, the pertinent licenses had expired; the property was being used for illegal (dangerous) purposes putting the public at large at risk; proceedings per the Karachi Port Trust Act 1886 had been issued before the competent forum, however, the petitioners were avoiding the said forum on the pretext of the present proceedings.

4. *Admittedly*, the petitions seek to agitate disputed questions of fact, not amenable for adjudication in the writ jurisdiction¹. There is also no cavil to the assertion that the relevant law² provides a forum and opportunity to consider any grievance of the petitioners in the present facts and circumstances. No endeavor was made by the petitioners' counsel to explain why recourse was made to writ jurisdiction in the manifest presence of an efficacious alternate remedy.

5. The writ jurisdiction of this Court is discretionary³ in nature and we are constrained to observe, in view of the reasoning as aforesaid, that the petitioners have failed to set forth a case for exercising such jurisdiction. Therefore, these petitions are found to be *prima facie* misconceived, hence, hereby dismissed along with all pending applications.

JUDGE

JUDGE

¹2016 CLC 1; 2015 PLC 45; 2015 CLD 257; 2011 SCMR 1990; 2001 SCMR 574; PLD 2001 Supreme Court 415;

² Port Authorities Land & Building (Recovery of Possession) Ordinance 1962, Karachi Port Trust Act 1886 etc.

³ Per *Ijaz Ul Ahsan J.* in *Syed Iqbal Hussain Shah Gillani vs. PBC & Others* reported as 2021 SCMR 425; *Muhammad Fiaz Khan vs. Ajmer Khan & Another* reported as 2010 SCMR 105.