

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

Present:

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

**C.P. No.D-796 of 2023**

Iqbal Ahmed	-----	Petitioner
	Versus	
NAB & others	-----	Respondents

Mr. Masood Ahmed, attorney of petitioner.  
Syed Dilshad Hussain, Special Prosecutor NAB a/w Aleem Baig I.O.  
NAB.

**14.03.2023.**

**ORDER**

**MUHAMMAD IQBAL KALHORO J:** Petitioner through his attorney has impugned notice u/s 19 r/w section 27 of National Accountability Ordinance, 1999 (NAO, 1999) addressed to Deputy Commissioner Karachi East seeking information about three properties one belonging to petitioner and requesting to ensure compliance of the Court's order passed by learned Accountability Court No.IV, Sindh at Karachi in Cr. Misc. Application No.11/2022, whereby the Court has confirmed freezing order of the said three properties passed by Chairman NAB.

2. Attorney of the petitioner submits that land identified at Sr. No.B of the notice admeasuring 18.32 acres in Deh Songal Karachi East was leased out to one Moosa Haji for a period of 99 years from where it was transferred to the petitioner. Subsequently the allotment of the land was cancelled by the Government of Sindh under Sindh Government Land (Cancellation of Allotment, Conversion and Exchange) Ordinance, 2001. But then petitioner received an offer letter from Land Utilization Department for purchase of the land. Responding, petitioner purchased the land against Rs.1,79,16,400/- and was issued allotment letter. When the petitioner tried to sell some portion of the land and approached the revenue department for this purpose, he was informed that property was under caution on the recommendation of NAB u/s 23 of NAO, 1999. Subsequently through Amendment Act, 2022 section 23 was repealed and in the consequence the caution imposed on his property was lifted. But then NAB filed Cr. Misc. Application No.11/2022 u/s 12 of NAO, 1999 and has succeeded in obtaining order from learned Accountability Court dated 21.12.2022

imposing/confirming moratorium on use of property/freezing put down by the Chairman NAB. The confirmation of freezing order as per attorney is illegal, void abinitio and since no reference has been filed, the same cannot be enforced.

3. On the other hand, Learned Special Prosecutor NAB and I.O have submitted that entire land identified at Sr.A,B and C of the impugned notice admeasuring 36-00 acres is Government land but the petitioner and others by showing them evacuees have succeeded in obtaining the same through a will deed allegedly executed by a dead person who had nothing to do with the properties. They submit next that investigation is still going on and at this stage if the freezing order is vacated, the third party interest would be created by the petitioner which would compromise merits of investigative proceedings.

4. We have heard the parties and perused material available on record. It appears that after repeal of section 23 of NAO, 1999 under which the subject property was under caution, the I.O. who is conducting investigation into allotment of the land to the petitioner and others filed a Cr. Misc. Application No.11/2022 u/s 12 of NAO, 1999 before learned Accountability Court No.IV, Sindh at Karachi alongwith order of the Chairman NAB freezing the identified properties pending investigation for its confirmation. The impugned order shows that Court issued various notices to the respondents including the petitioner but without any response from them. Ultimately after considering the material available on record the trial Court has passed the impugned order confirming freezing of the properties and holding that the allotment of Na-class to evacuee claimants is not without a suspicion. A perusal of petition shows that this order has been challenged by petitioner in C.P.No.D-735/2023 which is still pending. The impugned notice which has been challenged by the petitioner has been issued in compliance of order passed by learned Accountability Court and is not the result of exercise of executive authority to justify filing of a separate petition by the petitioner. The remedy, if any, of the petitioner is either before the trial Court which has passed the order of confirmation of freezing of the properties or before this Court in C.P.No.D-735/2023 challenging the same order. Until and unless the order is in the field, impugned notice will remain in the field. Because, as noted above, the impugned notice has its genesis in the order passed by the Court of law. Even on merits, we do not find the petition maintainable because during ongoing investigation into the authenticity of title of the petitioner over the land, the freezing cannot be lifted, for there is apprehension that petitioner would sell the land

hampering the investigation and abridging its outcome. This being the position, we do not find any merit in the petition and dismiss it accordingly alongwith pending application.

JUDGE

JUDGE

A.K