

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**  
**Suit No. -406 of 2023**  
**[Nahid Noor & others vs. The Deputy Commissioner West at Karachi& Ors]**

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<b>Date</b>	<b>Order with signature of Judge</b>
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For hearing of CMA No. 2789 of 2023 (Stay/A).

**Date of hearing : 12<sup>th</sup> January 2024**

**Date of order : 26<sup>th</sup> January 2024**

Mr. Muhammad Ali Waris Lari, advocate for Plaintiffs

Mr. Ahmed Masood, advocate for defendant No.13

Mr. Meran Mehar, AAG

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**Salahuddin Panhwar, J:-**Through instant suit, the plaintiff seeks declaration, cancellation of any purported permission, permanent injunction and damages. By dint of this order, I intend to decide application under Order 39 Rule 1 & 2 CPC read with Sections 94 and 151 CPC filed by the plaintiffs.

2. Precisely relevant facts are that plaintiffs, who are residents of Mianwali Colony, having Sanads issued under the Sindh Gothabad Scheme. It is alleged that construction of a Flyover is being carried out, which according to the plaintiffs is without approved plan and in violation of the relevant rules and laws. It is further alleged that illegal construction of the said Flyover is being undertaken by carving into the main road and reducing the width of the road, which is detrimental to the residents of the area and under the name of such illegal construction, the legal construction of the plaintiffs is being removed. Therefore, it is prayed that official defendants may be restrained from carrying on further construction work of the said Flyover till disposal of instant Suit.

3. Notices were issued to the defendants, who caused their appearance through their counsel.

4. Counsel for the plaintiffs contended that said Flyover is being constructed in order to provide illegal favour to Naya Nazimabad Builder and one Javedan Cement Ltd; that local police is also causing harassment to the plaintiffs; that even from ANDA MOR NORTH KARACHI has been closed on account of such illegal construction; that despite orders passed by

Division Bench of this Court in CP No.D-2595/2019 and CP No. D-144/2006, the construction of Flyover is being carried out.

5. In contra, counsel for the defendants contended that this Court in CP No. D-2595/2021 directed for removal of encroachment in and around the Road known as Millennium 2000 Road; that report of the Nazir also affirmed that the Goths being claimed as areas of residential are situated on Millennium 2000 Road; that plaintiffs have no legal titled document in their possession, as such, it is prayed that listed application may be dismissed with costs.

6. Heard and perused the material available on record.

7. Admittedly, C.P.No.D-862 of 2019 is pending for adjudication before this Court on the same cause of action; aggrieved persons have also filed civil suits claiming therein that the project of a flyover commencing from Mangopir road to North Nazimabad is causing inconvenience to them. It is claimed by the plaintiffs that defendants are dispossessing them forcefully without taking into consideration the fact that they have *Sanads* duly issued in their favour by the competent Authority. However, I am not impressed with the arguments advanced by the counsel for the plaintiffs as perusal of record it reflects that admittedly no Sanad has been issued in favour of the plaintiffs. However, the plaintiffs have failed to show any relation with the persons to whom Sanads have been issued. Even the plaintiffs have failed to show that the persons to whom such Sanads were issued are their forefathers. No pedigree certificate has been brought on record by the plaintiffs. Therefore, the plaintiffs were failed to substantiate their legal character. Accordingly, the injunction application is misconceived and the same is accordingly dismissed.

**JUDGE**