

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI  
**C.P. No.D-5385 of 2014**

Date

Order with signature of Judge

DIRECTION:

1. For order on CMA No.17724/2023.
2. For order as to maintainability of CMA No.13983/2023.
3. For hearing of CMA No.9795/2023 (contempt).

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**Dated; 16<sup>th</sup> August 2023**

Mr. Muhammad Najeeb Jamali, Advocate for Petitioner.

Mr. Zaheem Haider alongwith Mr. Ahmed Ali, Advocate for Respondents No.1&2.

Ms. Tania Alam, Advocate for Intervenor.

Mr. Muhammad Qasim, D.A.G.

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Above Constitutional Petition was disposed of vide order dated 27.01.2015 in the following terms: -

*“Pursuant to Court's directions, Colonel Farooq, Director Securities, DHA has shown appearance along with learned counsel for DHA and has produced the relevant record and submits that, the barriers have been installed at the request of residents of the area in view of serious law and order situation being created by miscreants and the criminal elements who usually come from adjoining Azam Basti and commit crimes of heinous nature including theft, dacoity and even rape, whereas, after installation of such barriers, crimes have reduced in the area. It is further stated that pursuant to the directions of this Court and by associating the petitioner, 8th and 16th East Streets have been opened.*

*Learned counsel for the petitioner submits that such streets have been opened only for a short duration during day hours, hence requests that respondents may be directed to open at-least two streets i.e. 8th and 16th Streets, for twenty four hours by fixing movable barriers by posting guards thereon, so that the residents of the area and the public at large may use the same as a thoroughfare, which may reduce any further inconvenience in this regard.*

*Colonel Farooq, Director, Securities, DHA and the learned counsel for respondent/DHA have agreed to such proposal by learned counsel for petitioner, however, submits that ten days' time may be granted to do the needful. In view of such statement and undertaking given by Director Securities, DHA, namely. Colonel Farooq and the learned counsel*

*for respondent, learned counsel for the petitioner is satisfied and submits that instant petition may be disposed of in view of such undertaking.*

*Accordingly, instant petition is disposed of with the directions to the respondents to remove the permanent barriers from 8th and 16th East Street and instead, install movable barriers, which shall be managed by the guards for twenty four hours and it may be ensured that petitioner and other residents of the area may have free access on public thoroughfare as referred to hereinabove.*

*Let compliance report may be submitted within two weeks'. Before parting with this order, we may observe that blocking of public roads, streets and thoroughfare permanently, or even for temporary period, except in accordance with law, or with the permission or by the orders of any competent Court of law, Authority or to meet some imminent threat to life and liberty of public at large without violating any law or affecting fundamental rights, shall always be avoided.*

*Petition stands disposed of in the aforesaid terms along with listed application."*

2. Thereafter, the petitioner filed two applications, firstly under section 151 CPC bearing CMA No.3279/2015 and secondly, contempt application under Article 204 of the Constitution read with Sections 3 and 4 of the Contempt of Court Ordinance, 2003 bearing CMA No.2218/2016 for alleged violation of the Court's order, as referred to hereinabove, which were also disposed of vide orders dated 08.04.2015 and 07.02.2017 respectively in the following terms: -

"08.04.2015:

*Mr. Mohammad Najeeb Jamali, Advocate for the Petitioner.*

*M/s. Dr. Shah Nawaz and Munawar Ali, Advocates for Respondent No.1 a/w.Mr. Aijaz Khattak, Law Officer DHA.*

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*Learned counsel for the respondent has filed a statement wherein it has been stated that in compliance of the orders of Hon'ble Supreme Court of Pakistan the DG Rangers has removed all barriers/blockages from the city including the subject barriers. Statement filed today in Court is taken on record. Respondent/DHA is directed not to install any barrier on the subject streets without permission of this Court.*

*The application stands disposed of.*

07.02.2017.

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*Mr. Najeeb Jamali, advocate for the petitioner*

*Mr. Shah Nawaz, advocate for DHA*

*Col. Farooq, Director Securities,  
Pakistan Defence Officers Housing Authority.*

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*In compliance of the order passed on 20.01.2017, Director Securities, Pakistan Defence Officers Housing Authority, is present in person alongwith statement dated 07.02.2017. He states that the orders passed by this Court have not been violated by DHA and or any of its personnel and the barriers and barricades were removed as directed by this Court and the same are not in existence at present. On behalf of DHA, he undertakes that orders passed by this Court in respect of barriers and barricades shall be obeyed in letter and spirit. This contempt application stands disposed of in terms of the undertaking given by him today.”*

3. After disposal of the aforesaid applications in above terms, petitioner filed current application for contempt of Court under Article 204 of the Constitution of Pakistan read with Sections 3 and 4 of the Contempt of Court Ordinance, 2003 bearing CMA No.9795/2023, on which notices were issued vide order dated 27.04.2023 in the following terms: -

**“Dated: 27<sup>th</sup> April 2023**

*Mr. Muhammad Najeeb Jamali, Advocate for Petitioner.*

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1. *Learned counsel for the petitioner seeks urgency on the ground that inspite of specific order passed by this Court on 27.01.2015, whereby, instant petition was finally disposed of and the respondents were directed to remove encroachment/barriers on the public road, the respondents again blocked the road, whereafter, contempt application was filed, which was also disposed of on the undertaking of the respondents that they will remove encroachment/barriers, however, once again respondents have blocked the road by placing cement blocks on the four streets of the vicinity, which is totally disregarded the order of the Court. Urgency granted.*

2. *Let notice of contempt application be issued to the alleged contemnors as well as to the D.A.G., to be served through first three modes, for **17.05.2023**. In the meanwhile, alleged contemnors are directed to ensure that the order already passed by this Court in the instant matter regarding removal of encroachment/barriers shall be complied with in letter and spirit, failing which, appropriate order will be passed against the delinquent officials.”*

4. Pursuant to Court's Notice, respondents/alleged contemnors filed a statement dated 26.06.2023 alongwith photographs, wherein, it has been stated that in compliance of Court's order dated 13.06.2023 read with order dated 27.01.2015 all the blockades have been removed from the subject street/road of DHA Phase-I, whereas, as per compliance report furnished on 19.03.2015, permanent barriers were already removed from 8<sup>th</sup> and 16<sup>th</sup> streets, however, some movable barriers were installed where security guards have been posted to operate the same twenty four hours to avoid any inconvenience to residents and also to ensure peaceful and secure environment. Learned counsel for DHA has submitted that petitioner has been filing various applications including contempt of Court application after final disposal of above petition inspite of the fact that Court's order has already been complied with, just to cause harassment and blackmail the respondents and the residents of the area, on whose request such barriers were installed to prevent the incidents of robbery and dacoity as well as snatching by unscrupulous criminal elements, who come from adjoining Azam Basti and commits heinous crimes . He has referred to the application filed under Order 1 Rule 10 CPC by residents of the Phase-I, DHA to this effect.

5. Learned counsel for the petitioner has controverted the allegations of harassment or blackmailing by the petitioner, however, submits that though in compliance of Court's orders permanent barriers have been removed, however, concrete barriers have not still been removed from some of the streets which is still causing serious traffic jam on the street in front of petitioner's house, and creates serious hindrance on free movement and access to public road/streets in phase-I, DHA, Karachi. Residents of Phase-I, DHA, who have filed applications i.e. CMA No.13983/2023 and CMA No.17724/2023,

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present in Court along with their counsel, submit that the barriers were installed on the request of residents for security reasons and to prevent the alarming increase of the crimes day by day in the area, which included snatching, theft and robbery/dacoity by the criminal elements, who usually come from adjoining Azam Basti and commit heinous crimes as referred to hereinabove, whereas, after installation of barriers, such crimes have reduced substantially. Learned counsel for the petitioner in response to such contention submits that instead of providing protection to the residents of DHA, respondents have chosen to block the main roads and the streets by placing permanent/temporary barriers, which amounts to creating hurdles and hindrance in free movement of the residents and their visitors on the public roads/streets and thoroughfares, whereas, the Hon'ble Supreme Court of Pakistan has already passed orders for removal of all such encroachments from the public thoroughfares in the city of Karachi, whereas, in compliance of such order, large number of such encroachments/barriers have already been removed even by the DHA, however, the orders of the Hon'ble Supreme Court of Pakistan as well as the orders passed by this Court in the aforesaid petition are not being complied with in letter and spirit.

6. After hearing the learned counsel for the parties and from perusal of the record, it appears that the order passed by this Court in the instant petition requiring removal of permanent barrier from subject roads/streets of Phase-I DHA, Karachi, has been substantially been complied with, as presently as per reports submitted by DHA, there seems no permanent barrier or blockage of roads/streets of Phase-I DHA. However, it appears that in order to prevent crimes in the area, at the request of the residents of Phase-I DHA, some concrete barriers (Jersey barriers) are still placed on some of the streets/roads,

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which may result in slowing down the flow of traffic, if not blockade all together. Accordingly, we are disposing of the listed application (CMA No.9795/2023) with the directions to the respondents/alleged contemnors to ensure that they shall ensure compliance of Court's order passed in the instant petition by removing all the permanent concrete barriers on the roads/streets of Phase-I DHA, Karachi and shall also ensure that jersey barriers, shall be placed where it is required for the purposes of security, traffic hazards and in order to prevent crime or accidents, however, after consultation with the residents of the area, including the petitioners provided it may not violate any law or the Court's orders in the instant petition and the order of the Hon'ble Supreme Court to this effect.

Application stands disposed of in the above terms.

**J U D G E**

**J U D G E**

\*Farhan/PS/Nadeem\*

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