

ORDER SHEET

IN THE HIGH COURT OF SINDH AT KARACHI

Constitution Petition No. D – 1737 of 2023

Date	Order with signature of Judge
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FRESH CASE

1. For orders on Misc. No. 8643/2023.
2. For orders on Misc. No. 8644/2023.
3. For hearing of Main Case.
4. For orders on Misc. No. 8645/2023.
5. For orders on Misc. No. 8646/2023.

07.04.2023:

Petitioner present in person.

1-5. Petitioner, who is appearing in person, submits that instant petition has been filed in the public interest, whereby, petitioner has alleged that respondent No.15 & 16 are raising unauthorized and illegal construction on Plot No.G-11, admeasuring 3000 square yards, Block 8, KDA Scheme 5, Clifton, Karachi, where, according to the petitioner, respondents intend to raise high-rise building [apartments] in violation of the terms of Karachi Building & Town Planning Regulations-2002 without obtaining approved building plan or approved from Environmental Protection Agency as well as in violation of ban imposed on such approvals of high-rise buildings pursuant to orders of the Hon'ble Supreme Court in the reported judgment **2020 SCMR 111** [Re: Abdul Karim v. Nasir Salim Baig & others], whereas, change of land use has also been restrained. It has been further submitted that in the subject are, no high-rise buildings are constructed, whereas, respondents intend to cover the compulsory open space. However, when the petitioner was confronted to refer to any document/approved building plan or any

correspondence, if made by the petitioner with the SBCA or other agencies to support such allegations and to verify the alleged violation, in response, he could not refer to any such document(s) nor has placed on record any material to this effect. Petitioner was further confronted as to whether petitioner has approached to the relevant authorities/forums intimating violations for appropriate action in accordance with law, before filing instant petition, in response to which, he has candidly stated that if notices are issued in the instant matter and inquiry is conducted by the Court to verify such allegations, the factual and legal position can be ascertained.

We are afraid that these type of petitions cannot be entertained, wherein, petitioner is neither an aggrieved party, nor any cause of action has been accrued or even requiring this Court to take cognizance under Article 199 of the Constitution, and to make a probe or to conduct an inquiry as to the allegations by the petitioner in the absence of any documentary evidence or material to justify such allegations. More particularly, when the relevant authorities/ forums available for such purpose have not been approached.

It has been observed that recently trend of filing frivolous petitions requiring the Court to first to make a probe and/or to conduct an inquiry into the allegations in such petitions, however, without any legal cause of action and in the absence of any evidence or material, has increased, which not only result in creating harassment to the private parties and the public functionaries, but also amounts to abuse of the process of law and wastage of precious Court's time, therefore, such practice needs to be curbed and discontinued.

Accordingly, instant petition is being totally misconceived, as it failed to disclosed any lawful cause of action, the same is hereby dismissed in limine alongwith all listed applications without orders as to costs. However, petitioner is cautioned to be careful in future in filing such type of constitutional petition(s) as the same would attract imposition of cost.

Let copy of this order may be sent to Director General, Sindh Building Control Authority for verification as to whether subject construction is being raised as per approved building plan and Karachi Building & Town Planning Regulations-2002 and not in violation of any law or the decision of the Hon'ble Supreme Court as referred to hereinabove and in case of any violation, appropriate action shall be taken after notice to the parties in accordance with law.

JUDGE

JUDGE

A.S.