

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI  
C.P. Nos.D-6261, 6262 and 6263 of 2019

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Order with signature of Judge

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*Before : Aqeel Ahmed Abbasi J.  
Mahmood A. Khan J.*

1. *For orders on Nazir report dated 04.05.2023.*
2. *For orders on office objections.*
3. *For hearing of Misc. No.27795 of 2019.*
4. *For hearing of main case*

30.05.2023.

Mr. Mohammad Saleem Mangrio, Advocate for the petitioner.  
Ms. Sofia Saeed Shah, Advocate for respondent No.2.  
Mr. Abdul Jaleel Zubedi, Additional Advocate General Sindh.

ORDER

1. Through above constitutional petitions, common relief has been sought by petitioners in the following terms:

- a. Declare that the petitioner after making full premium and having paid up-to-date rent is entitled to demarcation and physical possession of her lawfully allotted Plot No.G-151, measuring 0.50 Acres, situated at S.H.W. Phase-II, Karachi.
- b. Declare that the Respondents' inaction and inordinate delay to demarcate and hand over physical possession of Plot No.G-151, measuring 0.50 Acres, situated at S.H.W. Phase-II, Karachi to the petitioner is malafide, arbitrary, unjustified and without any lawful sanctity and the same are to be declared as such.
- c. Director the Respondents, their sub-ordinates and all those acting under or on their behalf to demarcate and hand over physical possession of Plot No.G-151, measuring 0.50 Acres, situated at S.H.W. Phase-II, Karachi to the petitioner immediately. In case of their failure, the Nazir of this Honourable Court may be directed to do the needful in the interests of justice, equity and good conscience.
- d. Restrain the Respondents, their sub-ordinates and all those acting under or on their behalf from making any change in the master plan as it stood on the day of balloting held in respect of the S.H.W. Phase-II Scheme of the Respondent No.2.
- e. Grant any other relief(s) which this Honourable Court deems just, fit and proper to the petitioners in the circumstances of the case.
- f. Award cost of the petition to the petitioner."

(Note: Except the plot numbers being different in all the above petitions common relief has been sought in the above terms).

2. Notice of above petitions were issued to the respondents and learned AAG pursuant to which counsel for the S.I.T.E. shown appearance, filed comments, however, did not file any objection as to claim of the petitioners in respect of allotment of industrial plots by S.I.T.E. in favour of the petitioners. During course of hearing Nazir was also appointed to inspect the site and submit detailed report dated 04.05.2023 to the following effect:

“It is respectfully submitted that in compliance of above referred Order, inspection was carried out by the undersigned, detail whereof is as follows:

#### FORMAL INFORMATION

Dated 02.05.2023

Attendees at SITE: Mr. Kashif (representative of petitioners), Mr. Shahab (associate of counsel for petitioner), Mr. Abdul Razzaq (Office Assistant, SITE Superhighway Phase-II, Karachi)

SITE(s): Plot Nos.H/19, K/26, G/145 &G/151, Phase-II, SITE Superhighway, Karachi.

Scope of Order: Inspection in respect of present status of subject sites.

#### COMPREHENSIVE VIEW OF SITE PROCEEDING

The undersigned accompanied with subordinate reached at the site, where above-named attendees were also present. Mr. Abdul Razzaq (Office Assistant, SITE Superhighway Phase-II, Karachi) pointed out locations of subject plots as per the layout plan available with him. The details were noted as follows:

##### Plot No.H/19

The Office Assistant, SITE Superhighway Phase-II informed that an overlapping allotment with Plot No.H/4-C has been made in place of subject plot. He also presented letter dated 16.07.2020 forwarded by concerned Estate Engineer to the Director Administration, SITE describing same (copy enclosed marked 'A').

Physically, the plot in question was found in possession of allottee of Plot No.H/4-C, where a godown by title of Hamza Corporation was found situated.

##### Plot Nos.K/26, G/145 & G/151

The above-named official of SITE informed that the land where such plots fall, is sub-judice before Honourable High Court in Suit No.484 of 2013. He also presented letters dated 08.03.2019 in respect of each such plot, forwarded by concerned Estate Engineer to the Deputy Director Administration, SITE describing same (copies enclosed, marked B, C & D)

Physically, the plots in question were found open to sky, with no development by SITE in surrounding area. However, some boundary walls were found situated on nearby land.

It is most respectfully pointed out that neither the concerned Chief Engineer – SITE nor the concerned Estate Engineer – SITE even bothered to attend the subject inspection, to assist the undersigned, despite service of notice to SITE. Instead said “Engineers”, themselves delegated such task to an Office Assistant of their office, who was without satisfactory knowledge of the subject matter and also did not bring the original approved layout plan of the subject vicinity.

Some photographs were also taken at the time of inspection and same are enclosed herewith marked P/1 to P/10.

Report is respectfully submitted as desired.”

3. After hearing the learned counsel for the parties at length and keeping in view the comments filed on behalf of the respondents/SITE and the Nazir’s reported dated 04.05.2023 in respect of plots No.K/26, G/145 and G/151, Phase-II, SITE Superhighway, Karachi it has transpired that claim of the petitioners has not been denied by the SITE authorities, whereas as per Nazir’s report the said plots are identified and are available to be handed over to the petitioners, therefore, we are disposing of instant Constitution Petitions No.D-6261, 6262 and 6263 of 2019 with directions to the respondents/SITE to handover physical possession of the aforesaid plots to the petitioners within fifteen days. However, it is clarified that this order is subject to further orders as may be passed in Suit No.484 of 2013 pending before the learned Single Judge of this Court, which according to the learned counsel for the respondents/SITE, has been filed by the private respondents who are claiming right and title from Board of Revenue, however, it has come on record that their leases of 30 years have already expired. Instant petitions stand disposed of in the above terms along with listed applications.

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