

ORDER SHEET  
THE HIGH COURT OF SINDH AT KARACHI

C.P No.D-4823 of 2023.

-----  
Date:           Order with signature(s) of the Judge(s)  
-----

Priority.

1. For Hearing of Misc. No.24561/2023.
2. For Hearing of Misc. No.22128/2023.
3. For Hearing of Main Case.

10<sup>th</sup> September, 2024.

Mr. Afaq Ahmed advocate for the Petitioner.  
Mr. Ahmed Masood advocate for Respondent No.8.  
M/s. Sartaj Ahmed Malgani and Ms. Hamaira Jatoi advocates for  
SBCA.  
Mr. Zeeshan Asad advocate for SMPA.  
Mr. Irshad Ahmed Shaikh, AAG.

\*\*\*\*\*

Petitioner is claiming that in question property is in violation of judgment passed by Hon'ble Apex Court reported in 2020 SCMR 111 [Abdul Karim Vs. Nasir Salim Baig and others] wherein Hon'ble Apex Court ban any conversion from residential to commercial after 2019 and according to counsel basically this plot was meant for residential purpose, hence, wrongly converted into commercial.

Comments of SBCA and Sindh Master Plan Authority negate the version of the Petitioner. According to comments there is no violation over subject matter property.

Besides, it is a matter of record that Civil Suit bearing No. 772 of 2022 is pending for adjudication. It is pertinent to mention that when there is a controversy over factual aspects, this court, while exercising writ jurisdiction under the writ of mandamus, cannot delve into matters requiring evidence and civil court which is ultimate court to decide the fate over legal character or status of the property if wrongly transferred and Petitioner may contest the pending suit or file fresh suit by challenging the illegal constructions, if any. Accordingly, instant petition is dismissed alongwith pending application[s].

JUDGE

JUDGE