

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

Suit No.1219 of 2024

Date: Order with signature of the Judge

1. For hearing of CMA No.16567/2024.
2. For orders on Nazir report dated 26.11.2024

28.11.2024

Mr. Ahmed Ali Hussain, advocate for plaintiffs.
Mr. Khursheed Javed, advocate for defendant No.2/SBCA
Mr. Mudasir Abbas, advocate for defendant No.5
Ms. Maria Tahir, advocate for defendant/KMC
Mr. K.A. Vaswani, Assistant Advocate General

Agha Kashif Ali, Deputy Director, District South, SBCA having CNIC No.43304-5909090-7

On 13.11.2024, the following order was passed:

- “1. *Granted.*
2. *Notice to the defendants as well as office of the Advocate General, Sindh for 27.11.2024. In the meanwhile defendants are restrained from permitting any commercial activity on the suit property.*
3. *This is an application for inspection. It is submitted that the application is not adversarial in nature and merely seeks independent recordal of the facts on the file of this court. There appears to be no impediment to the grant of this application which is hereby allowed. Nazir (or its designated officer) is directed to inspect the suit property and submit report before the next date. Nazir's fee is fixed at Rs.30,000/- to be paid by plaintiff, in advance”*

In pursuance thereof Nazir report was received and paragraph 3 thereof states that the approved building plan and relevant documents etc. of the suit property were not made available by the SBCA officials due to which the issue of illegal construction, modifications or alterations etc. could not be ascertained. *Prima facie* the Nazir inspection appears to have been frustrated by the SBCA.

The concerned officer of SBCA was directed to be in attendance on the next date with an explanation. Today, Agha Kashif Ali, Deputy Director, District South, SBCA is present and has submitted an interim report on behalf of SBCA. The interim report is taken on record, however, the Director General, SBCA, is directed to ensure that all the relevant documents sought by the Nazir for his inspection are provided to him by tomorrow. In the event that the Director General is unable to comply he should be in attendance in person in court on the next date. Immediately upon receipt of relevant information the Nazir shall once again conduct the inspection as ordered vide order dated 13.11.2024.

Agha Kashif Ali, Deputy Director, District South, SBCA, in explanation, stated that the relevant documentation could not be located as it was in the record room. Respectfully, the said explanation could not be found to be

justifiable. Learned counsel for the plaintiff demonstrates from the record that the concerned officer has a history of frustrating the orders of the court in the manner as aforesaid. He specifically refers to page 241-C of the court file, being a copy of an order demonstrating prima facie malfeasance by the concerned officer in other similar cases as well.

Be that as it may, it is the tentative apprehension of this Court that the conduct of Agha Kashif Ali, Deputy Director, District South, SBCA amounts to interference, obstruction, interruption and / or prejudicing the process of law or the due course of judicial proceedings; *prima facie* constituting contempt per section 3 of the Contempt of Court Ordinance 2003. Therefore, issue show cause notice thereto, under Section 17(2) of Contempt of Court Ordinance, 2003 as to why he should not be prosecuted for contempt.

Notice may also be issued to the learned Advocate General Sindh either be present in person or nominate an AAG to assist this court for framing of charge per Chapter XIX Cr.P.C. and to prosecute if so required; in pursuance of judgment of Division Bench of this Court reported in the case of Ekram ud Din Khan vs. D.G. FIA and 3 others (PLD 2023 Sindh 90).

The office is instructed to convey a copy hereof to the Director General SBCA; to conduct an inquiry into this matter and also determine whether the officer is fit to serve in the present position. The competent authority shall also determine whether Agha Kashif Ali should be placed under suspension, pending the inquiry. The inquiry is expected to be conducted expeditiously and a report shall be submitted before this Court on or before the next date. In the event that the inquiry is not concluded and report presented, within the stipulated time, the Director General SBCA shall be present in person with explanation.

Mr. Khursheed Javed, advocate states that, per information available with the SBCA, illegal construction has taken place on the suit property and the SBCA shall immediately ensure that the same is remedied. Such statement is treated as a representation on behalf of SBCA and taken on record.

To come up on 19.12.2024, when Agha Kashif Ali will remain in attendance. Interim order passed earlier to continue till the next date.

Judge