

ORDER SHEET
THE HIGH COURT OF SINDH AT KARACHI

C.P No.D-2775 of 2023

Date:

Order with signature(s) of the Judge(s)

Before: Salahuddin Panhwar &
Khadim Hussain Soomro, JJ

Hg. of Case.

1. For Orders on Office Objection.
2. For Hearing of Main Case.

25th April, 2024.

Mr. Muhammad Salim Mangrio advocate for the Petitioner.
Mr. Jawad Dero, Addl. A. G. Sindh a/w Shahzad Fazal Abbasi,
Deputy Commissioner, East.
Mr. Hassan Mujtaba Abidi advocate for Respondent No. 2 to 4.

SALAHUDDIN PANHWAR, J. The Petitioner has approached this Court seeking redress for grievances pertaining to the acquisition and subsequent utilization of the Subject Property, i.e. Plot No. NJ-15, encompassing an area of 10,000 square yards, strategically located at Trans-Lyari Quarters, in the vicinity of Old Sabzi Mandi, Karachi. The Petitioner's claims are multifaceted, with the primary thrust directed towards securing a declaration that the acquisition is null and void from its inception and seeking the restoration of the Subject Property to the Petitioner. For the sake of clarity and completeness, the reliefs sought by the Petitioner are enumerated here-in-below:-

- a) ***Declare that the alleged acquisition of the Subject Property is not for public purpose in view of change of public purpose to commercial purpose as such; void ab initio, unlawful, malafide and reckless colourable exercise of power.***
- b) ***Declare that all notifications/notices/orders issued by the Respondents with regard to the Subject Property including passing of alleged Award are illegal, without jurisdiction, void ab initio and thus, liable to be set aside by the Honourable Court.***
- c) ***Direct the Respondents to issue de-notification in respect of the subject property bearing Plot No. NJ-15, measuring 10,000 Sq. Yds., situated at Trans-Lyari***



Quarters, near Old Sabzi Mandi, Karachi so that same may be resumed in favour of the Petitioner without any further delay.

- d) Direct the Respondents to peacefully hand over to the Petitioners the vacant physical possession together with title documents of the Subject Property by making appropriate entries in favour of the Petitioner without further delay as the same is no more required for public purpose.*
- e) Any other legal and equitable relief(s) this Honourable Court deems fit and necessary in light of the circumstances of this case.*
- f) Grants Costs of this Petition.*

The learned counsel for the Petitioner has, inter alia, advanced the argument that the said Plot No. NJ-15, originally the property of Saifuddin, son of Abbasbhai, and serving as the premises for Messrs. Central Wire Netting & Metal Products Company, was legally entrusted through a power of attorney to Jameel Ahmed in the year 1970—a transaction subsequently ratified by a judicial decree in 1998. Thereafter, Jameel Ahmed duly transferred his rights to the Petitioner in the same year. In the year 2003, the property was designated for requisition to facilitate the establishment of Askari Park. Notwithstanding this declared intention, the Karachi Metropolitan Corporation (KMC) assumed control of the property in 2005, regrettably without extending any form of compensation to the rightful owner. It is noteworthy that, although the property was not assimilated into Askari Park, it has been continuously employed for commercial endeavors—a fact underscored by the denotification of the contiguous plot, NJ-16, pursuant to a separate petition preferred in 2011. In the face of these developments, the Petitioner invokes Article 199 of the Constitution, alleging an egregious misuse of authority, the conspicuous absence of compensation, and the unauthorized commercial exploitation of the property.

Upon a meticulous examination and consideration of the record: In adherence to the order dated the 7th of March, 2024, a compliance report submitted by the Deputy Commissioner Karachi East has been duly recorded. Given its pertinence, the said report is hereby transcribed verbatim:

"In compliance of order dated 27/3/2024 passed in the instant petition. It is submitted that the Deputy Director Land, Jamshed Quarter KMC vide letter No.

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DD/L/JM/KMC/39/2024 dated 07/02/2024 requested for the De-notification of Notification No. DO/K/RB/2339/03 dated 16/6/2003 under section of Land Acquisition Act 1894 issued by the then District Officer (Revenue) City District Government Karachi and Notification No. EDO (Rev)/578/2003 dated 07/08/2003 U/s 6 of the Sindh Land Acquisition Act issued by the then Executed Officer, City District Government Karachi in respect of Acquisition of Plot No. NJ-15 admeasuring 1000 square yards situated at Trans Liyari Quarters, near Old Sabzi Mandi Karachi for construction of Askari Park CDGK, on the ground that the said plot neither included in the Park nor any compensation in cash or land in exchange to the owner. Copy annexed as Annexure A.

It is further to submit that the Mukhtiarkar, Jamshed Quarters, Karachi East, under letter No. MUKH/JQ/K/E/312/2024 dated 05/04/2024 reported that after physical inspection of the site that the said plot is out of boundary wall of Askari Park and as the land owned by the KMC, hence, no entry is available in the record of rights maintained in his office, however, there is no objection if the plot may be de-notified. The Copies annexed as Annexure B.

On the basis of request of Deputy Director, Land Jamshed Quarters KMC and the report of Mukhtiarkar Jamshed Quarters Karachi East the Notification No. DO/K/RB/2339/03 dated 16/6/2003 under section of Land Acquisition Act 1894 issued by the then District Officer (Revenue) City District Government Karachi and Notification No. EDO(Rev)/578/2003 dated 07/08/2003 U/s 6 of the Sindh Land Acquisition Act issued by the then Executed Officer, City District Government Karachi in respect of Acquisition of Plot No. NJ-15 admeasuring 10000 square yards situated at Trans Liyari Quarters, near Old Sabzi Mandi Karachi for construction of Askari Park CDGK has been de-notified under this office No. DC/K/E/Rev.Br./634/2024 dated 24/4/2024. The Copies annexed as Annexure C.

The report is submitted for further appropriate orders".


It is incontrovertibly established that the property in question has been denotified, as it is no longer requisite under the auspices of the Land Acquisition Act. Consequently, the Petitioner has chosen not to pursue the reliefs encapsulated within prayer clauses 'A' to 'C', for their intended purpose has been duly fulfilled.


The learned Assistant Advocate General, representing the Karachi Metropolitan Corporation and the Deputy Commissioner East, have acquiesced to the delivery of possession. In accordance with this concord,

[Handwritten signature]

it is ordered that the vacant possession of the aforementioned property shall be handed over to the Petitioner within a fortnight, and all pertinent mutations and title documents shall be expeditiously furnished to the Petitioner.

Considering the aforementioned rationale, the present petition along with all the pending interlocutory applications is disposed of. Each party shall be responsible for its own incurred costs.


25/4/24
JUDGE


JUDGE

M.Zeeshan

