

ORDERSHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
C.P No. D- 85 of 2019

DATE **ORDER WITH SIGNATURE OF JUDGE**

Hearing of case (Priority)

1. For orders on office objection 'A'.
2. For orders on CMA No.328/2019 (S/A)
3. For hearing of main case

22-01-2019.

Mr. Qurban Ali Malano Advocate for the petitioner.

Mr. Khuda Bakhsh Chohan Advocate for respondent No.2 along with
Pir Wahid Bukhsh Municipal Commissioner S.M.C Sukkur.

Mr. Ahmed Ali Shahani Assistant Advocate General Sindh.

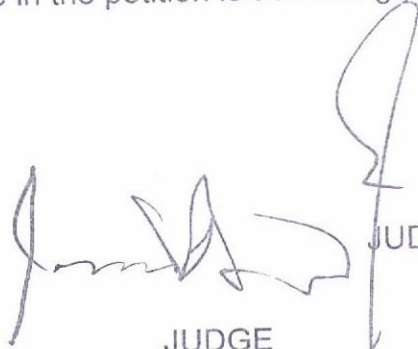
This petition is filed by Sukkur Press Club through its President Javaid Ali Memon. In some other matter we have passed orders that parks should be maintained strictly in accordance with law and encroachment be removed. The only concern of the petitioner is that a portion of a park namely Muhammad Bin Qasim park was leased out by Municipal Corporation long time back somewhere in 1970. Mr. Malano learned counsel appearing for petitioner submits that the action of the Municipal Corporation in removing the structure of the Press Club is not only unlawful but in violation of the order passed in C.P No.D-154 of 1988, whereby a petition against the construction, subject matter of this petition, was dismissed, hence it is claimed that the alleged action is nothing but past and closed transaction.

We have heard learned counsel appearing for the parties and perused the record.

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The order passed in C.P No.D-154/1988 does not embark upon issues arising out of this petition. The primarily question is whether any portion of a amenity plot meant for park could be leased out to an individual / independent entity such as Sukkur Press Club. We are afraid this cannot be done under any state of imagination. An amenity plot meant for park can only be maintained as a park and even the purpose of amenity cannot be changed without due course of law. Hence the portion of the park leased out to petitioner is beyond the definition of amenity meant for park as it only pertains to affairs of a private association.

Mr. Malalno is not in a position to assist as to under what provision of law such amenity could be used to give benefit to any individual entity / association. We are afraid that the structure as raised by the petitioner on an amenity plot meant for park is nothing but a trespass, hence the petitioner has not approached the Court with clean hands and is not entitled to occupy the subject land / building in violation of law. No one including the petitioner is above the law. We find no substance in the petition is accordingly dismissed.


JUDGE