

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Constitution Petition No. D-395 of 2022
(*Mst. Haneefa Bano vs. Province of Sindh & others*)

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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Before;
Muhammad Saleem Jessar, J;
Adnan-ul-Karim Memon, J

Date of hearing and Order: 26.02.2025.

None present for the petitioner.
Mr. Niazuddin Memon, Advocate for Respondent No.4.
Mr. Azher Ahmed Khan, Advocate for Respondent No.8
Mr. Ghulam Abbass Kuber, AAG.

ORDER

Adnan-ul-Karim Memon J:- The petitioner claims their neighbor (Respondent No. 8) is illegally constructing the building as the commercial structure on a small plot next to their house. The neighbor and the Sindh Building Control Authority (SBCA) argue that the construction is legal, citing a permit for a ground plus four-story building (G+4) based on regulations for small commercial plots in Sukkur's old city area. However, neither the petitioner nor the respondents could provide the official zoning plan that would confirm the legality of the construction. The court has adjourned the case to allow them time to produce the zoning information.

2. Counsel for the respondents informed the court that the petitioner has passed away. Furthermore, the construction by Respondent No. 8, which was the subject of the petitioner's complaint, has been completed. As a result, the concerns raised in the petition are now controversial, and there is no ongoing harassment or nuisance from Respondent No. 8.

3. The Sindh Building Control Ordinance of 1979 established a Special Court (under Section 18-A) specifically to handle violations of Section 19(1). This court can only initiate proceedings based on a complaint filed by the Sindh Building Control Authority (SBCA) or its authorized representative (as per Section 19(2)). Additionally, Section 18-D clarifies that the Special Court can also act on a police report detailing violations of the Ordinance.

4. The Sindh government was previously ordered to establish district-level 'Special Courts' within one month, as mandated by the Sindh Building Control Authority (Amendment) Ordinance, 2013 (Section 18-A). Despite this, individuals can still file complaints regarding illegal construction with the Sindh Building Control Authority (SBCA) under Section 7-A of the 1979 Ordinance, or directly with the new Special Courts. However, following the Supreme Court's ruling in *Mian Azam Waheed*, (2023 SCMR 1247), the High Court's writ jurisdiction should only be used as a last resort, after all other effective legal remedies have been exhausted. This prioritizes the efficient use of the judicial system and avoids overburdening higher courts with cases that can be resolved elsewhere.

5. While this court cannot address the matter under its writ jurisdiction due to the cited legal provisions, the Director General of the Sindh Building Control Authority (SBCA) is directed to examine the issue. The SBCA DG shall conduct a hearing, allowing all affected parties to present their cases, and pass a decision as per law within two months. This petition is now closed.