

IN THE HIGH COURT OF SINDH AT KARACHI

C. P. No.D-7500 of 2021 a/w
C.P. No.D-137 of 2022

Date

Order with signature of Judge

PRESENT:

Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Syed Fiaz-ul-Hassan Shah

FRESH CASE:

1. For order on CMA No.3946/2024.
2. For order on Office Objections No.1 & 27.
3. For order on CMA No.2080/2024.
4. For hearing of main case.

Dated; 14th October 2025

Mr. Rafiq Ahmed Kalwar, Advocate for Petitioner in C.P. No.D-7500/2021.

Mr. Zia-ul-Haq Makhdoom and Ms. Rizwana Ismail, Advocates for Respondent No.8 and for Petitioner in C.P. No.D-137/2022.

Syed Zaeem Hyder, Advocate for Cantonment Board Clifton.

Mr. Khurram Ghayasuddin, Advocate for Sindh Master Plan Authority.

Mr. Mubarrak Ali Shah, Advocate for KDA.

M/s. Dhani Bux Lashari and Rafiq Ahmed Bhanbhro, Advocates for SBCA.

Mr. Muhammad Arif, Advocate for Respondent No.4 in C.P. No.D-137/2022.

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ORDER

Muhammad Iqbal Kalhoro, J :-- Petitioner has filed this petition challenging erection of multi-storeyed building on Plot No.G-11 admeasuring 4,555.55 square yards situated at Block-8, KDA Scheme No.5, Clifton, Karachi on the grounds, among others, that it was initially a residential plot allotted to Murtaza Cooperative Housing Society Limited i.e. Respondent No.7, which sold it out in the year 2018. The subsequent owner then again sold it to Respondent No.8 i.e. Muhammad Jawed. According to the learned counsel for petitioner, initially the road

on which the subject property was to be erected was 200 feet wide. But subsequently, due to construction of underpass in front of it, it has been reduced to 30 wide, hence constructions of multi-storied building on the said road is in violation of the relevant regulations. The other ground petitioner has challenged erection of the subject building on is that the Supreme Court vide its order dated 22.01.2019 has enforced a ban on change of land use from residential to commercial, and at the same time, it had ordered that the cases in which already such conversion had been allowed shall be reviewed and all efforts shall be made to ensure that the land which was originally provided in the Master Plan of City of Karachi is restored to its original status. Petitioner's counsel has emphasized that this case was not placed before the Review Committee, constituted by the Competent Authority in compliance of the Supreme Court's order and only in order to pretend compliance of the Supreme Court's order, Assistant Director, Master Plan Department, SMPA has purportedly issued a letter dated 03.03.2023 stating therein that the review in this case has been carried out and the conversion has been found genuine.

2. We have heard the parties in the above backdrop and perused material available on record. The facts, which are not disputed herein, are that the entire road on which the subject property is situated was declared as commercial one as back as the year 2003. The conversion of the land use from residential to commercial was also duly granted before the order of the Supreme Court with no one ever objecting to it. The underpass,

made a ground for taking exception to the construction of building, cannot be defined other than a road itself allowing communication of vehicles to and fro, unless some other definition is attached to it by the law. The Supreme Court's order basically directs that the NOCs allowing conversion of land use granted earlier were to be reviewed by the relevant Authority. In this case, it appears that the case has been reviewed and an official letter by the Assistant Director placed on record through a statement dated 23.5.2023 has confirmed this fact i.e. the NOC has been reviewed and found genuine. Record further reflects that such letter has neither been challenged by anyone including the petitioner in any proceeding, nor termed as fake and fabricated.

3. The other aspect of the case of the petitioner is that conversion of the subject plot has not been reviewed by the Committee constituted in terms of the orders of the Supreme Court. We are of a humble view that it was not the strict directions of the Supreme Court to constitute a Committee and place each case there for a decision. The constitution of the Committee, if any, was the internal arrangement of the department to expedite decisions in such cases. It was done at the most to regulate scrutiny of such cases in a formal way by maintaining consistency. But, if any case was independently and separately reviewed by the relevant authority, such review will not be held illegal just because it was not placed before the so-called Committee. Neither it was the requirement of law, nor the order of the Supreme Court contemplated constitution of any

Committee as a mandatory stipulation for scrutinizing the cases for a review. The emphasis of the Supreme Court was on reexamination of each case to determine whether NOC was rightly given or not, which in this case has been complied with.

4. Besides, we have not found any illegality either in granting approval for multi-storyed building plan on the plot or in change of land use from residential to commercial on a declared commercial road, which admittedly took place before the order of the Supreme Court was passed in the year 2019.

5. Apart from above, we also have serious reservations over locus standi of the petitioner to maintain this petition. To our query, learned counsel for petitioner has tried to justify that the petitioner is a former Administrator of Karachi Metropolitan Corporation. Nonetheless, such position would not give him a *carte blanche* to file the petition over an issue in which *prima facie* no illegality seems to have been committed. On vague grounds, such as above, filing a petition is not only shocking but it also palpably does not justify indulgence of the Court to pass a judicial order restraining construction of the building in which general public's money is invested just because a person thinks, without a proof that everything leading to such construction has been done illegally. The petition appears to have been filed only on a technical ground that why this case has been independently and separately reviewed by the relevant authority, and not by the relevant committee.

6. As stated above, the relevant authority in terms of the Supreme Court's order was only required to scrutinize the case of each party for a review. Therefore, any authority, which is concerned and relevant, and if has reviewed any such case, would be deemed to be sufficient compliance. The purpose of passing of the observation of the Supreme Court was to bring to notice such cases to the authority so that an informed decision was passed. In this case, the case was brought to the notice of the relevant authority and which has reviewed it, found it genuine, which in our view, is sufficient compliance of Supreme Court's order.

7. In view of the above facts and circumstances, we find this petition meritless and dismiss it.

8. Learned counsel for petitioner in C.P. No.D-137 of 2022 is satisfied, hence the same is accordingly disposed of.

JUDGE

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