

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-5770 of 2022
(Feroze 1888 Mills Limited & others versus Board of Revenue & others)

Date	Order with signature of Judge
------	-------------------------------

Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Zulfiqar Ali Sangi

Date of hearing and order: 11.2.2026

Mr. Abdul Ahad advocate for the petitioners
Ms. Zehra Sehar Vayani advocate for respondent No.1
Mr. Abdul Jalil Zubedi, Assistant AG
Ms. Wajiha Mehdi, Assistant Attorney General
Mr. Nadir Khan Burdi advocate for the LDA / respondent No.3

ORDER

Adnan-ul-Karim Memon, J. – Petitioners have filed the captioned Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following prayer: -

- I. *Declare that the installation and construction of High-Tension Electricity Poles on the 80 feet wide road/track located in Deh Moachko Tapo Gabopat, Keamari Town, Karachi next to the Petitioners' plots bearing Survey Nos.182, 183, 184, 185, 186, 187, 188, 189, 190, 243, 165, 166 is unlawful, disruptive of the peaceful possession of their properties and are in violation of their easement rights attached to the adjacent road;*
- II. *Direct the Respondents to relocate the installation and construction of the High-Tension Electricity Poles to a safe distance away from the boundary walls of the plots bearing survey Nos.182, 183, 184, 185, 186, 187, 188, 189, 190, 243, 165, 166, so as to render the 80 feet wide road/track accessible;*
- III. *Permanently restrain the Respondents, their officials, agents or any one acting under their authority from constructing and installing the High-Tension Electricity Poles on the 80 feet wide track/road located at Deh Mochko Tapo, Gabopat, District West, Karachi adjacent plots bearing Survey Nos.182, 183, 184, 185, 186, 187, 188, 189, 190, 243, 165, 166, and/or restrain the Respondents from such acts in pursuance of the foregoing installations/constructions which shall prejudice the access of the Petitioners to their Plots or hinder the smooth operation of their business.*

2. Learned counsel for the Petitioners submits that the Petitioners are lawful owners and occupants of industrial plots situated at Deh Mochko, Tapo Gabopat, District West, Karachi, and have been using an 80-feet wide road as the sole access to their properties for decades. It is contended that Respondents No. 2 and 4 have unlawfully initiated the installation of 132 KV high-tension electricity poles along the said road, including directly in front of the Petitioners' boundary walls and access points, thereby obstructing the entrance and egress of heavy

vehicles, trailers, and containers essential for their business operations. It is argued that the construction has reduced the effective width of the road and seriously prejudiced the Petitioners' rights protected under the law, as well as their constitutional rights under Articles 23 and 24 of the Constitution. Learned counsel submits that no lawful approval exists for the installation of transmission lines on the subject road, that the alleged green belt does not exist on the ground, and that the installations pose safety hazards. It is further contended that the Petitioners are not opposed to the project per se, but object only to the placement of poles in a manner that obstructs access to their plots. The Petitioners, therefore, seek relocation of the poles. He prayed to allow the petition.

3. Learned counsel for Respondents No. 2 and 4 submits that Respondent No. 2 is a strategic organization functioning under the National Command Authority Act, 2010, and that the subject transmission line is part of a public project of national importance relating to the K-2 and K-3 nuclear power plants for the generation of 2300 MW electricity. It is contended that the 132 KV Double Circuit Transmission Line has been approved after extensive planning, Environmental Impact Assessment (EIA), and requisite approvals, including SEPA approval and NOC from LDA. It is argued that the poles are being installed on the green belt/public property and not on the carriageway, and that the base diameter of each pole is approximately five feet, which does not obstruct traffic or access. Learned counsel also deny violation of any easement rights and assert that the Petitioners themselves have encroached upon the road, thereby reducing its width. It is further submitted that the project is in the supreme public and national interest and that in case of conflict, individual inconvenience cannot override collective public interest. The counsel for the Respondents pray for dismissal of the petition.

4. Learned AAG appearing for Respondent No. 1 submits that the Board of Revenue is the custodian of government land in the Province. Referring to the Nazir's inspection report dated 09.12.2022, he submitted that the pillar bases were found installed in the middle of the road and that no valid NOC appears to have been obtained for the installation of the transmission line on the subject land. It is further submitted that the permission dated 21.04.2022 does not pertain to the disputed area.

5. Learned counsel for LDA submits that the Petitioners' land falls within the controlled area of LDA. It is contended that while Respondent No. 4 had obtained an NOC dated 21.04.2022 for road cutting at Hawksbay Scheme-42, no permission was granted for the installation of transmission lines in Deh Mochko, Tapo Gabopat, District West. It is further submitted that no digging or installation permission was obtained from LDA for the subject site, nor were way-leave charges paid, and that the earlier NOC has been withdrawn. Learned counsel

submits that installation of 132 KV transmission lines requires prescribed minimum clearances and sufficient road width, and that if the road on the ground is 40 feet wide, installation of such poles would impermissibly reduce the usable carriageway. LDA counsel submits that Respondents No. 2 and 4 are liable to be restrained from further installation unless proper approvals are obtained.

6. The learned Nazir, in compliance with the Court's order dated 28.11.2022, inspected the site and reported that pillar bases of towers were installed adjacent to the Petitioners' boundary wall and on the undeveloped pathway/road. Measurements were taken between the boundary wall and the tower bases. It was noted that the installations were almost in a straight line and that one tower No. 28 was an angle tower installed near the turning point. The LDA officials were absent at the time of inspection, and clarification regarding the existence of a green belt was not provided.

7. We have heard the learned counsel for the parties and perused the record with their assistance.

8. From the material available on record, we have noticed that it is not disputed that the Petitioners are lawful allottees/lessees of the subject industrial plots and have been using the 80-feet wide road as access to their properties. The existence of the road as per the site plan has not been denied. The right of access to a public road is a recognized civil right, although Respondents No. 2 and 4 assert that the project is of national importance and that approvals from SEPA and LDA, KDA and other civic agencies were obtained, the record reflects serious controversy regarding the validity and applicability of such approvals to the subject location.

9. The learned AAG as well as learned counsel for LDA have categorically stated that no valid NOC was obtained for installation of transmission lines in Deh Mochko, Tapo Gabopat, District West, and that the earlier NOC pertained to a different scheme and has subsequently been withdrawn.

10. The Nazir's report further records that pillar bases were found installed in the middle of the road and adjacent to the Petitioners' boundary wall, and that the existence of a green belt was not verified. Thirdly, even assuming that the project serves a public purpose, it is settled law that public interest projects must be executed strictly in accordance with law and after obtaining all mandatory statutory approvals. Executive necessity or public importance cannot override statutory requirements nor can it authorize encroachment upon public roads in derogation of vested rights. The Supreme Court has consistently held that actions affecting property rights must satisfy the test of legality, transparency and due process, and must not be arbitrary.

11. Article 23 of the Constitution guarantees the right to acquire, hold, and dispose of property, while Article 24 protects against compulsory deprivation of property save in accordance with law. Although the road itself may be public property, obstruction of lawful access to property constitutes a civil injury and cannot be permitted without lawful authority, subject to final determination by the court of plenary jurisdiction. Furthermore, where statutory clearances and minimum safety standards are required for the installation of 132 KV transmission lines, the absence of competent approval renders such installation legally unsustainable, which is subject to final determination by the court concerned after recording evidence as the balancing exercise between individual rights and public interest presupposes lawful action on both sides. However, at the same time, this Court is conscious that the transmission line is part of a larger public utility project. The Petitioners themselves have stated that they are not opposed to the project per se but only to the placement of poles in a manner that obstructs access to their plots. In these circumstances, competent authority has to ensure that public project is executed strictly in accordance with law and without unlawful obstruction of access rights.

12. Accordingly, the petition is disposed of with direction to the competent authority/respondents to re-examine the alignment and placement of the transmission line in consultation with all stakeholders to ensure that the effective width of the road, and complies with statutory safety standards and lawful access of the Petitioners to their plots is not materially obstructed, subject to the entitlement under the law.

13. It is clarified that the Respondents No. 2 and 4 may proceed with the project if any in accordance with law and after ensuring that no unlawful encroachment or obstruction of access occurs. However that is subject to all just exceptions as provided under the law.

JUDGE

JUDGE