

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**

**C.P. No. D-5371 of 2025**

*[Muhammad Hashim Khan V. Province of Sindh and others]*

Date	Order with signature of Judge(s)
------	----------------------------------

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

**Date of hearing and Order: 01.04.2026**

M/s. Ali Asghar Buriro and Sibtain Muhammad Ali, Advocates for the Petitioner.  
Mr. Aamir Mansoob Qureshi, Advocate for Respondent Nos.6.  
Mr. Abdullah Advocate, associate of Mr. Anwar Tariq, Advocate for Respondent No.4 and 5.  
Mr. Dhani Bux Lashari, Advocate for SBCA.  
Mr. Akash Mustafa, Advocate for SBCA.  
Mr. Ali Safdar Depar, A.A.G.  
Mr. Asif Khan, Deputy Administrator, Evacuee trust Property.

\*\*\*\*\*

**ORDER**

**Adnan-ul-Karim Memon, J.** – Petitioner Muhammad Hashim Khan has filed these Constitution Petitions under Article 199 of the Constitution of Islamic Republic of Pakistan 1973, seeking following relief:-

- i) *Declare that the impugned declaration/ order dated 23-10-2025, (Annexure C) issued by the Respondent No.3, declaring the petitioner's premises/ building as "dangerous" is illegal, arbitrary, discriminatory and of no legal effect.*
- ii) *Direct the official respondents No.2 & 3, to fourth with remove the sealing notice/order pasted on the petitioner's premises and allow restoration of business of petitioner.*
- iii) *Restrain the respondents from taking any coercive are adverse action against the petitioner or his business premises without due process of law.*
- iv) *Direct the respondents to conduct a fresh and impartial inspection/ enquiry of the entire building through an independent technical team, after notice to the all occupants including the petitioner.*
- v) *Any other order/ directions as deem just and proper, in the circumstances of the case.*

2. Learned counsel for the Petitioner submitted that the Petitioner is a lawful tenant of the subject premises since 1985 under tenancy created by Evacuee Trust Property Board (ETPB) and has been running his restaurant business therein. It was contended that the Petitioner has been regularly paying rent and utility charges and

is in peaceful possession of the premises. Learned counsel further submitted that private respondents, claiming ownership, have already initiated ejectment proceedings before the Rent Controller, which are pending adjudication, and the relationship of landlord and tenant has been specifically disputed by the Petitioner. It was argued that during pendency of such proceedings, Respondent No.3/ SBCA, without issuing any prior notice, inspection report, or affording an opportunity of hearing, abruptly declared the premises/building as “dangerous” and pasted a sealing notice dated 23.10.2025. The said action, according to the Petitioner’s counsel, is arbitrary, mala fide, and violative of the principles of natural justice as well as the provisions of the Sindh Building Control Ordinance, 1979. It was further contended that the impugned action is discriminatory in nature, as other shops and residential portions of the same building continue to remain occupied and operational. Learned counsel submitted that the impugned action was taken at the behest of private respondents to pressurize the Petitioner in the pending rent litigation. It was also submitted that the building is a protected heritage structure, therefore, no adverse action could have been taken without following due process and consulting the relevant heritage authorities.

3. Conversely, learned counsel for SBCA assisted by the learned counsel for the private parties submitted that the impugned action was taken strictly in accordance with law and in compliance with the directions of this Court. It was contended that a fresh inspection of the building was carried out, which revealed that the structure is in a ruinous and dilapidated condition, with major structural cracks, falling debris, and exposed corroded steel, rendering it unsafe for human habitation. It is urged that the matter was thereafter referred to the Technical Committee on Dangerous Buildings (TCDB), which, after revisiting the site, categorically declared the building highly dangerous and unfit for occupation. It was further submitted that in view of the said findings, the case has also been referred to the Heritage Department for appropriate action in accordance with applicable rules. Learned counsel for the private respondent thus contended that the safety of occupants and general public is paramount, therefore, the Petitioner and other occupants are liable to vacate the premises, and the petition is liable to be dismissed.

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

5. The controversy in the present matter revolves around the declaration of the subject building as “dangerous” by SBCA and sealing of the petitioner’s premises without prior notice.

6. The record reflects that the building in question was inspected by the concerned authorities and thereafter the matter was referred to the Technical Committee on Dangerous Buildings (TCDB), which, after detailed inspection, declared the building to be in a ruinous and dilapidated condition, with structural cracks, falling debris, and exposed corroded steel, and consequently declared it dangerous and unfit for human habitation. The said technical report has not been rebutted through any independent technical assessment produced by the Petitioner.

7. Under the provisions of the Sindh Building Control Ordinance, 1979, particularly sections relating to dangerous buildings, SBCA is legally empowered to declare a building dangerous and to order its evacuation or demolition if the structure poses risk to human life. The paramount consideration in such matters is the safety of human life and property, which overrides private rights of tenancy or business. It is a settled law that where a building is declared dangerous by the competent technical forum, this Court, in constitutional jurisdiction, does not sit as an appellate forum over technical findings unless the same are shown to be mala fide, without jurisdiction, or patently illegal.

8. The Petitioner's contention regarding tenancy rights and pendency of rent proceedings is not relevant for determining the structural safety of the building, as issues of tenancy and ownership are to be adjudicated by the Rent Controller, whereas the question whether a building is dangerous falls within the domain of technical authorities under the Sindh Building Control laws.

9. However, at the same time, it has been strongly emphasized that the building is a protected heritage building, therefore, any demolition or structural alteration cannot be carried out without following the procedure prescribed under the Sindh Cultural Heritage (Preservation) Act 1994 and without approval of the Heritage Department. Thus, the matter requires coordination between SBCA and the Heritage Department if the subject building is a protected heritage building before taking final action.

10. In the case of *Ardeshir Cowasjee v. Karachi Building Control Authority* (PLD 1999 SC 288), the Supreme Court held that in matters relating to dangerous buildings and heritage buildings, the authorities must act strictly in accordance with law and after due process, and the safety of public life is the foremost consideration. Similarly, in *Human Rights Case No. 1-K of 2006* (PLD 2007 SC 578), the Supreme Court emphasized that no commercial or private interest can be allowed to endanger human life, and dangerous buildings must be dealt with strictly in accordance with law.

11. In view of the above facts and law, we are of the view that the declaration of the building as dangerous by the technical forum does not call for interference in

constitutional jurisdiction. However, the authorities are directed to proceed strictly in accordance with law, particularly with reference to the heritage status of the building, and ensure that all occupants are given due notice and reasonable time to vacate the premises before taking any coercive action.

12. Consequently, the directions is issued to SBCA and Heritage Department shall jointly decide the fate of the building in accordance with law within two weeks and if the building is declared as heritage the appropriate precautionary steps shall be taken in accordance with law. The Petitioner shall be given reasonable time to vacate the premises. If the building is to be restored/strengthened, the Heritage Department may pass appropriate orders in accordance with law. The dispute of tenancy/title shall be decided by the Rent Controller independently, without being influenced by this order.

13. The petition along with pending application(s) stands disposed of in the above terms.

JUDGE

JUDGE

Shafi