

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Const. Petition No.D-1954 of 2026.

(Aziz Hanif Soorty & another v Federation of Pakistan & others)

Date	Order with signature of Judge(s)
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Before:

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Muhammad Hasan Akbar

Date of hearing and Order: 21.05.2026

Mr. Talha Javed, advocate for the petitioner.

Mr. Asad Ahmed Aurangzeb, advocate for ETPB.

Mr. Shah Hussain, DAG.

ORDER

Adnan-ul-Karim Memon, J. – Petitioners Aziz Hanif Soorty and Abdul Rauf Razzak invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, seeking declaration that the notices dated 02.03.2026 and 05.03.2026 issued by respondent No.2, along with subsequent proceedings in Enquiry No.47/2021, are illegal, without lawful authority, and violative of their fundamental rights under Articles 4, 9, 10-A, 18, 23 and 24 of the Constitution. They further sought a declaration that the subject property bearing Survey No.2/1, Sheet No.SR-6, measuring 2594 square yards, situated in Serai Quarters, Karachi, is not Evacuee Trust Property, and the respondents have no jurisdiction to proceed against it. Permanent restraint against coercive action was also prayed for.

2. Learned counsel for the petitioners submitted that the petitioners are lawful owners of the subject property based on valid title documents, including transfer and mutation in favour of the legal heirs and a registered sale transaction. It was contended that the Evacuee Trust Property Board had, as early as 1994, recognized the property as simple evacuee property duly transferred to the predecessor-in-interest of the petitioners, which attained finality as it was never challenged. It was further argued that respondent No.3 had itself acknowledged in various communications that the property is not under its control or management, and even in Rent Case No.1046 of 2022, respondent No.2 admitted having no concern with the property since 1994. Counsel contended that despite this admitted position, FIA initiated the impugned enquiry solely on the basis of Supreme Court directions, without verifying the status of the property, thereby acting without jurisdiction, malafide, and in violation of statutory and constitutional protections. It was further submitted that the proceedings seek to reopen a matter already settled under law, contrary to the Evacuee Trust Property framework and applicable statutory provisions, and thus amount to unlawful interference in the petitioners' vested rights.

3. On notice, the respondent FIA filed its comments with the narration that in response to the notices issued to the petitioners, Petitioner No.1 appeared before the office and produced all relevant title documents about the property bearing Survey

No.2/1, Sheet No.SR-6, measuring 2594 square yards, situated at Serai Quarters, Karachi. The said documents were duly scrutinized and forwarded to the Deputy Administrator, Evacuee Trust Property Board (ETPB) for verification. It was further stated that the ETPB, after examining the record, confirmed the genuineness of the documents as well as the ownership of the petitioners and their predecessor-in-interest, and also clarified that the subject property is a simple evacuee property which does not fall within the administrative control or domain of the ETPB. Consequently, it was stated that the matter stands closed insofar as Respondent No.2 is concerned.

4. Respondent No.3(i), through the Deputy Administrator, ETPB, submitted detailed comments explaining that the subject property, measuring approximately 08 kanals 09 marlas (5098 sq. yards), was historically managed by the Department since 1960, with 54 tenants paying rent up to 1994. It was stated that the property was initially allotted to private individuals through a provisional transfer order dated 25.11.1959 and a permanent transfer order dated 12.10.1966. However, upon a reference under Sections 8 and 10 of the Evacuee Trust Properties (Management and Disposal) Act, 1975, the Chairman of ETPB, vide order dated 06.12.1994, declared the property as simple evacuee property, which attained finality as no revision was filed. It was further explained that although the matter was later highlighted by audit authorities and an attempt was made to seek revision under Section 17 of the Act, the same was found to be time-barred. Respondent No.3 raised preliminary objections regarding maintainability, locus standi of the petitioners, concealment of facts, and absence of cause of action. It was also submitted that the FIA action and notices were issued pursuant to directions of the Hon'ble Supreme Court of Pakistan dated 31.03.2021 in SMC No.1/2014, directing identification and retrieval of evacuee trust properties, and that the respondents acted strictly in accordance with law and judicial directives. In fact, Respondent No.3 admitted historical management of the property but maintained that ETPB presently has no operational concern after 1994, while asserting that actions taken were lawful and in compliance with Supreme Court directions. The petitioners' allegations were denied as baseless, and dismissal of the petition was prayed for with costs as being premature and not maintainable.

5. The Evacuee Trust Property Board and learned DAG in principle conceded that there was no surviving dispute regarding the property's status after 1994 and that the FIA enquiry had effectively established that the property does not fall within their control.

6. In view of the pleadings of the parties, their respective submissions, and the material placed on record, it appears that the core controversy in the present case pertains to the initiation and continuation of enquiry proceedings by FIA in respect of the subject property, despite the admitted position emerging from the record that the Evacuee Trust Property Board, after due scrutiny, has acknowledged the petitioners' title documents and has further clarified that the subject property does not presently fall within its administrative control or concern since 1994.

7. It is a settled principle of law that where the competent statutory authority itself does not assert control or dispute over the subject property, and where the foundational basis of enquiry is effectively negated by official verification, the continuation of coercive proceedings without any surviving jurisdictional basis becomes legally questionable and may amount to an unwarranted interference in vested civil rights.

8. Furthermore, any action affecting property rights must be supported by lawful authority, must conform to the requirements of due process, and must not be arbitrary or excessive to offend Articles 4, 9, 10-A, 23, and 24 of the Constitution of the Islamic Republic of Pakistan, 1973. The right to fair trial and due process mandates that where the factual foundation of proceedings is effectively removed by the concerned department itself, continuation of such proceedings cannot be justified merely on the basis of general directives, particularly when no adverse material survives against the petitioners.

9. In the present case, since the Evacuee Trust Property Board has not only verified the petitioners' documents but has also categorically stated that the property is not under its domain, and further in view of the concession recorded from the learned DAG that no subsisting dispute remains regarding the status of the property after 1994, the continuation of FIA proceedings loses its legal efficacy and becomes unnecessary and unwarranted.

10. Accordingly, by consent of the learned counsel for the parties and without touching the merits of the case, and in the peculiar circumstances of the case, this petition is disposed of with the observation that the FIA shall not interfere in the petitioners' peaceful enjoyment and possession of the subject property based on the impugned enquiry. However, it is clarified that this order shall not prejudice the rights of any competent authority to proceed strictly in accordance with law if any fresh, independent, and lawful material is available in future.

11. All pending application(s) stand disposed of in the above terms.

JUDGE

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