

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-1523 of 2016
(Pakistan Beverage Limited versus Government of Sindh and others)

Date	Order with signature of Judge
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Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Muhammad Jaffer Raza

Date of hearing & order: 21.09.2026

Mr. Waqas Asad Shaikh, advocate for the petitioner.
M/s Amanullah, Dhani Bux Lashari, Ghulam Akbar Lashari &
Rafiq Ahmed Bhambro, advocates for SBCA.
Mr. Abdul Jalil Zubedi, AAG.

ORDER

Adnan-ul-Karim Memon, J. Petitioner has filed this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following prayer: -

- a) *Impugned notice dated 22.01.2016 issued by respondent No.3 may kindly be set aside as being illegal, perverse and erroneous.*
- b) *Direct the respondent No.2 and 3 to provide the information requested vide letter dated 26.01.2016.*

2. The petitioner, being aggrieved by the notice dated 22-01-2016 issued by Respondent No.3 under the relevant provisions of the Karachi Building & Town Planning Regulations, 2002, whereby the occupants of Shop No.7, Ground Floor, Bulbulia Mansion, Plot No.97, Survey Sheet No. A.M.7, Shahrah-e-Liaquat, Karachi, were directed to vacate the building within seven days.

3. The learned counsel for the petitioner submits that the petitioner is a tenant of the premises since 1950 under an oral tenancy arrangement and the impugned notice was issued without following the procedure prescribed under Chapter 7 of the Regulations. It is contended that the Technical Committee of SBCA (TCDB) neither inspected nor investigated the building before the notice was issued, nor was any specific defect or finding regarding the alleged unsafe condition of the building communicated to the petitioner. He further contended that under Section 7-3-1 of the Regulations, the occupants were required to be afforded an opportunity to submit objections and to be heard before any direction to vacate could lawfully be made but no such opportunity was provided. He further contended that after receiving the notice, petitioner submitted letters dated 26-01-2016, 25-02-2016 and 07-03-2016, requesting a copy of the Technical Committee's report and seeking clarification regarding the alleged unsafe condition of the building, but no response was received. He further contended that

the impugned notice was issued arbitrarily and with mala fide intentions and that the respondents were threatening demolition without complying with the prescribed legal procedure. It is also added that illegal gratification was demanded by officials and under Articles 10-A and 24 of the Constitution, seeks protection against demolition or dispossession except strictly in accordance with law. He prayed for allowing the instant petition.

4. Counsel for the SBCA submits that the subject premises is an old, dangerous and dilapidated building, comprising Ground + 4 upper floors, which is fully occupied and it was constructed prior to the establishment of the Authority. He further contended that a complaint was received regarding illegal construction in the old building. Upon inspection, no fresh construction was found; however, the inspection revealed that the building was in a severely dilapidated condition and that a portion had already collapsed, resulting in the unfortunate death of a girl. He further contended that looking to the dangerous condition, the matter was referred to the Technical Committee on Dangerous Buildings, comprising technical experts, including professionals from PEC, PCATP, structural engineering and SBCA. The Committee inspected the building on 12-08-2015 and submitted its report and recommendations declaring the building dangerous. He further contended that on the basis of the Committee's findings, the Authority issued notice dated 25-08-2015 directing the owner/occupants to vacate the building. The notice was also pasted at the main entrance for information of all occupants. It is submitted that despite the notice, the occupants failed to comply. He further contended that another notice dated 21-10-2015 was issued to the occupants, but no effective response was received. The Authority also approached the relevant utility agencies on 21-10-2015, followed by a reminder dated 22-01-2016, for disconnection of utility services from the dangerous building. He further contended that the matter was also taken before the learned Provincial Ombudsman Sindh by one Muhammad Sultan and after considering the matter, the learned Ombudsman passed an order dated 14-10-2015, directing the Authority to proceed further in accordance with law. He further contended that if the petitioner was aggrieved by any order passed by the Authority, an appropriate statutory remedy was available under Section 16 of the Sindh Building Control Ordinance, 1979, and the petitioner has not shown any lawful basis for bypassing the statutory mechanism. He further contended that if the petitioner, as a tenant, has any claim concerning alternate accommodation, compensation, tenancy rights or other private remedies, the same may be pursued against the owner before the competent forum. Such private dispute, however, cannot justify continued occupation of a building declared dangerous by the competent technical authority. He lastly prayed that the petitioner may be directed to vacate the dangerous building forthwith, in the interest of public safety and protection of human life,

while leaving the petitioner at liberty to pursue any independent remedy available to him against the owner in accordance with law.

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

6. The controversy essentially concerns the legality of the impugned notice requiring vacation of the subject building on account of its being declared dangerous.

7. The record, as placed before this Court, shows that the building was inspected by the Technical Committee on Dangerous Buildings, comprising technical experts, on 12.08.2015, whereafter the Committee declared the building dangerous and recommended necessary action. Pursuant thereto, notices dated 25.08.2015 and 21.10.2015 were issued to the owner/occupants, and the matter was also considered by the learned Provincial Ombudsman, who, vide order dated 14.10.2015, directed the Authority to proceed in accordance with law.

8. In such circumstances, the plea that the impugned notice was issued without any technical inspection or material regarding the dangerous condition of the building is not borne out from the record. The subsequent notice dated 22.01.2016, therefore, cannot be examined in isolation from the earlier proceedings and the Technical Committee's report.

9. The petitioner's grievance regarding non-supply of the Technical Committee's report and alleged denial of opportunity may, at best, constitute a procedural grievance; however, no material has been brought on record to establish that the petitioner has suffered any prejudice warranting interference under Article 199 of the Constitution, particularly when the building had already been examined by the competent technical body and declared dangerous. The constitutional protection of life under Article 9 requires the authorities to take reasonable measures where an existing structure poses an imminent threat to human life, and the petitioner's status as a tenant cannot confer a right to remain in occupation of a building found unsafe by the competent authority. His claims, if any, regarding tenancy, alternate accommodation, compensation or any other private right are matters to be pursued before the appropriate forum against the owner and do not invalidate the action taken for securing public safety.

10. Moreover, the availability of the statutory remedy under Section 16 of the Sindh Building Control Ordinance, 1979, is also a relevant consideration, and the petitioner has not demonstrated any exceptional circumstance warranting bypassing the prescribed statutory mechanism.

11. Consequently, no jurisdictional defect, violation of law, or denial of a vested legal right has been established so as to warrant exercise of constitutional jurisdiction. The petition is, therefore, dismissed, with the observation that the petitioner shall remain at liberty to pursue any independent remedy available to him in law concerning his tenancy, compensation or alternate accommodation. The respondents, however, shall ensure that any further action concerning vacation, demolition or disconnection of utilities is undertaken forthwith strictly in accordance with the applicable law and prescribed procedure.

JUDGE

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