

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

*Mr. Justice Muhammad Saleem Jessar;
Mr. Justice Abdul Hamid Bhurgri.*

C.P No.D-6722 of 2026

[M/s Pioneer Amusement Services (Pvt.) Ltd. V. Pakistan Defence Officer Housing Authority and another]

Petitioner : Through M/s. Haider Waheed and Romain Qamar,
Advocates.

Respondent No.1 : Through Mr. Abdul Qayyum Abbasi, Advocate.

Respondent No.2 : Nemo.

Date of Hearing : 27.10.2026

Date of Order : 27.10.2026

ORDER

Abdul Hamid Bhurgri, J.- The petitioner has invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, challenging the order dated 14.10.2026, passed by the learned VIIIth Senior Civil Judge, Karachi South, in Suit No.1597/2026, whereby the interim order dated 20.07.2026, directing maintenance of status quo, was vacated.

2. Briefly, the petitioner entered into an agreement dated 25.07.1996 with Respondent No.1/Pakistan Defence Officers Housing Authority (DHA) in respect of Plot No.P-1, measuring 2.61 acres, situated within Nisar Shaheed Park, Phase-IV, DHA, Karachi, for establishing and operating an amusement park under the name and style of “Chunky Monkey”. The agreement, initially executed for ten years and subsequently renewed twice, expired on 24.07.2026. The petitioner claims a right of first refusal under Clause 4B of the agreement and asserts that Respondent No.1, instead of considering its request for renewal, invited expressions of interest from third parties. Consequently, the petitioner initiated proceedings under Section 20 of the Arbitration Act, 1940, wherein an interim order directing maintenance of status quo was granted on 20.07.2026, but subsequently vacated through the impugned order. The petitioner further alleges that thereafter Respondent No.1 took steps to dispossess it and sealed the premises.

3. Learned counsel for the petitioner contends that the impugned order was passed without affording a reasonable opportunity of hearing, merely because the cause list supporting counsel's request for adjournment, on account of his engagement before this Court, was not produced. He submits that the order is contrary to the principles of natural justice and places reliance upon 1992 SCMR 1895. He further argues that the petitioner has a contractual right of first refusal under Clause 4B of the agreement and that its alleged dispossession and sealing of the premises, without due process, are unlawful. He has also produced a notice dated 14.10.2026, whereby Respondent No.1 afforded three days to the petitioner to vacate the premises; however, the premises were sealed on 15.10.2026, before expiry of the stipulated period. Learned counsel describes the sealing as symbolic and seeks restoration of the position existing prior to the impugned order.

4. Conversely, learned counsel for Respondent No.1, relying upon the counter-affidavit, raises a preliminary objection to the maintainability of the petition on the ground of availability of an adequate alternate remedy. He submits that the petitioner was merely a licensee whose agreement expired on 24.07.2026 and that, despite notice dated 23.06.2026, it failed to vacate the premises. He further contends that the interim order was obtained by concealing material facts and was rightly vacated owing to the petitioner's failure to proceed with the matter. According to him, Clause 4B does not confer an absolute right of renewal. He, therefore, prays for dismissal of the petition.

5. We have heard learned counsel for the parties and examined the material available on record.

6. A perusal of the impugned order reveals that the learned Trial Court vacated the interim protection primarily on the ground that learned counsel for the petitioner, despite seeking adjournment on account of his engagement before this Court, failed to produce the relevant cause list. In our view, mere non-production of the cause list, in the circumstances of the case, was not sufficient justification for vacating an existing interim order without considering the matter on its merits. When counsel had communicated the reason for his

inability to appear, the learned Trial Court ought to have adopted a judicious approach and afforded a reasonable opportunity of hearing, particularly when the matter involved competing claims concerning possession and contractual rights. While unnecessary adjournments are undoubtedly to be discouraged, procedural requirements should not be applied so rigidly as to defeat substantial justice. The learned Trial Court could have verified counsel's engagement or afforded a short opportunity, rather than vacating the interim protection solely on that ground. Moreover, the subsequent sealing of the premises on 15.10.2026, even before expiry of the period stipulated in Respondent No.1's own notice dated 14.10.2026, prima facie reflects an alteration of the position sought to be protected. We are, therefore, of the considered view that the impugned order, to the extent it vacates the interim protection, cannot be sustained.

7. We are conscious that the parties have raised competing claims regarding the nature and expiry of the agreement, the alleged right of first refusal and possession of the subject property. These questions require consideration by the learned Trial Court while deciding the pending injunction application. At this stage, we refrain from expressing any opinion on their merits. However, the interests of justice require that the position existing immediately before the impugned order be preserved until the said application is decided, so that neither party may obtain an undue advantage merely on account of the vacation of interim protection on a procedural ground.

8. Consequently, the petition is disposed of in the following terms:-

- (i) The impugned order dated 14.10.2026, to the extent whereby the interim order dated 20.07.2026 was vacated, is set aside.
- (ii) The parties are directed to maintain status quo in respect of the subject property as it existed immediately before the passing of the impugned order dated 14.10.2026, until the pending injunction application is decided by the learned Trial Court. Neither party shall alter that position or create any third-party interest in the subject property during the subsistence of this direction.

- (iii) The learned Trial Court is directed to take up and decide the pending injunction application on 07.11.2026, the date already fixed before it, after affording an opportunity of hearing to both parties, strictly in accordance with law and on its own merits, without being influenced by any observations made herein. The parties, through their learned counsel, shall appear before the learned Trial Court on the said date, fully prepared to address arguments, and shall not seek unnecessary adjournments.
- (iv) It is clarified that the interim protection directed herein is purely temporary and shall remain operative until the decision of the learned Trial Court on the injunction application. Nothing observed in this order shall be construed as determining the contractual rights, title or entitlement to possession of either party.

9. The petition, along with all pending applications, stands disposed of in the above terms.

JUDGE

JUDGE
HEAD OF CONST. BENCHES

Ayaz Gul