

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-4812 of 2026
(Malik Muhammad Iqbal Nadeem & others versus Province of Sindh & others)

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

1. For order on Misc. No.18586/2026 (Urgency)
2. For order on office objection No.2
3. For order on Misc. No.18587/2026 (Exemption)
4. For order on Misc. No.18588/2026 (Stay)
5. For order on Misc. No.18589/2026 (Inspection)
6. For hearing of main case

Date of hearing and decision: 11.8.2026

Mr. Hammad Ahmed Khan, Advocate for the petitioner

ORDER

Adnan-ul-Karim Memon, J. The Petitioners seek a declaration that the unauthorized construction and commercial use of ST-5 and ST-6 are illegal and without lawful authority; cancellation of the allotment in favour of Respondent No.6; restraint against further construction or change of use except in accordance with the approved Layout Plan; production of the complete allotment and title record; enforcement of SBCA's sealing order and appropriate proceedings for its violation; removal/demolition of the unauthorized construction in accordance with law; and appointment of the Nazir or a Court Commissioner to inspect the subject plots and report their present status. Any other relief deemed just and appropriate may also be granted.

2. We asked the counsel for the petitioner to satisfy this court about the maintainability of the petition in terms of the order dated 27.02.2026 passed in CP No. D-1266/2026, whereby the SBCA inspected the subject property at ST Plot Nos. ST-05 and ST-16, Sector 4-C, Saeedabad, Baldia, District Keamari, and found illegal construction work at the foundation/excavation stage and issued the show cause notice to them.

3. The counsel for the Petitioners contend that the alleged commercial use and unauthorized construction are contrary to the approved Layout Plan and violate Regulations 5-2.23 and 18-4.1.1 of the Karachi Building and Town Planning Regulations, 2002, Article 52-A(2) of the Karachi Development Authority Order, 1957, and the applicable provisions of the Sindh Building Control Ordinance, 1979 and the Sindh Regulation and Control (Use of Plots and Construction of Buildings) Ordinance, 2002, all of which prohibit misuse or

conversion of amenity plots from their designated purposes. It is further contended that the allotment itself is prima facie unlawful, as the applicable KDA criteria prescribe specific eligibility for plots reserved for clinics/hospitals, which Respondent No.6 allegedly does not fulfil. In any event, Respondent No.6 failed to develop the plots within the prescribed period despite allegedly obtaining possession in 1991. The Petitioners therefore seek examination and production of the complete allotment record and cancellation of the allotment if found unlawful. The Petitioners also invoke Articles 9, 19-A and 26 of the Constitution, asserting that amenity plots reserved for public benefit cannot be converted to private or commercial use and that withholding the allotment record violates their constitutional right of access to information. They further contend that the failure of SBCA and other authorities to enforce the sealing order and prevent continued unauthorized use amounts to failure to perform statutory duties.

4. We have heard the learned counsel for the petitioner on the maintainability of the petition and perused the record with their assistance.

5. We are of the view that the present petition, in its existing form, is not liable to be entertained at this stage. The material placed on record shows that the very subject matter of the grievance had already been examined pursuant to the order dated 27.02.2026 passed in Constitutional Petition No.D-1266/2026, whereafter the SBCA inspected the subject premises, found construction at the foundation/excavation stage, issued a Show Cause Notice under Section 7-A, and directed the occupants to stop construction and produce the requisite ownership documents and approved building plan/NOC. The premises were thereafter subjected to sealing action.

6. The Petitioners' principal grievance in the present petition is substantially connected with the alleged unauthorized construction and the alleged violation of the SBCA's regulatory directions. Therefore, the appropriate course, in the first instance, is to require the competent statutory authority, namely SBCA, to proceed in accordance with law and determine the alleged violations on the basis of the relevant record. The constitutional jurisdiction of this Court under Article 199 is extraordinary and discretionary and is not ordinarily to be invoked where an adequate and efficacious statutory or administrative remedy is available. The Supreme Court has emphasized that such jurisdiction should not be used to circumvent an available remedy under the relevant law.

7. At the same time, the disposal of the petition on the ground of alternate remedy should not be construed as an adjudication upon the legality or otherwise of the alleged allotment, change of land use, commercial cultivation or unauthorized construction. Those questions have not been finally determined on

merits. In particular, the allegation that the subject plots are amenity plots reserved under the approved Layout Plan for specified public purposes, and that they have allegedly been converted to private or commercial use, raises issues which the competent authorities are required to examine strictly in accordance with the applicable planning and land-use laws. The Supreme Court has recognized that amenity land is intended for public use and that its allotment or use for an unauthorized commercial purpose may conflict with Article 52-A of the Karachi Development Authority Order, 1957.

8. Accordingly, the appropriate order would be to dispose of the petition without expressing any final opinion on the legality of the allotment or land use, with a direction to SBCA to examine and decide the Petitioners' complaints strictly in accordance with law, including the alleged violation of its sealing order and the alleged unauthorized construction. SBCA shall also consider the approved Layout Plan, the status and purpose of the subject amenity plots, the ownership/allotment documents, the building plan/NOC, and any other relevant record before passing a reasoned and speaking order. If SBCA finds any construction or use to be unauthorized, it shall take consequential action strictly in accordance with the applicable law, after providing the concerned parties an opportunity of hearing where legally required.

9. For the foregoing reasons, the petition alongwith listed applications is disposed of as not presently maintainable in view of the availability of an adequate statutory remedy before SBCA, without adjudicating the substantive controversy regarding the legality of the allotment, alleged conversion of amenity land, commercial use or unauthorized construction. SBCA is directed to consider and decide the Petitioners' grievance through a reasoned and speaking order in accordance with law, particularly in light of its earlier inspection, Show Cause Notice and sealing action.

JUDGE

JUDGE