ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Constitutional Petition No. D – 5159 of 2024
(Khawaja Abdul Raheem versus Director General SBCA & others)

DATE	**ORDER WITH SIGNATURE OF JUDGES**

Before:
Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Muhammad Jaffer Raza

Date of hearing and order: 15.09.2026

Mr. Kazim Hussain Mahesar, Advocate for the Petitioner.
M/s. Dhani Bux Lashari and Ghulam Akbar Lashari, Advocates for SBCA.
Mr. Ali Safdar Depar, AAG.

ORDER

Adnan-ul-Karim Memon, J. Petitioner Khawaja Abdul Raheem has filed this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, seeking the following relief:

a. To admit , allow and accept instant petition.

b. To direct the Respondent No.1 to perform its statutory duty and demolish the illegal construction raised at the parking area of the apartment;

c. To restraint Respondent No.2 & 3 and their agents, employees, contractors to raise further construction in the premises;

2. The Petitioner has filed the instant Constitutional Petition under Article 199 of the Constitution, being aggrieved by the impugned order dated 30.07.2024 passed by the learned District & Sessions Judge, East Karachi/Special Court, which, according to them, was passed without proper consideration of the material facts, record and applicable law.

3. The petitioner claims to be the owner/resident of Flat No.207, Fidai Apartment, situated at 8195/1-H, Nasserwanji Road, Garden East, Karachi, and challenges the alleged illegal construction raised by private respondents in the parking area of the apartment. It is alleged that Mustafa Wazeer Ali and his wife constructed four flats and shops in the parking area, demolished part of the boundary wall and installed iron shutters, in violation of the approved building plan.

4. The learned counsel for the petitioner states that he had earlier approached the concerned authority and the Special Court regarding the illegal construction. In Constitutional Petition No.6677/2016, this Court had appointed a Nazir for site inspection, whose report noted that the ground floor was reserved for parking,

while flats and shops had also been constructed there. The petitioner further relies upon comments filed by SBCA in connected petitions, wherein it was stated that the illegal shops had been sealed on 12.03.2020, the seals were subsequently tampered with, and letters were issued to utility agencies and police authorities for disconnection of services and assistance. The petitioner's counsel submits that the earlier petition was disposed of with liberty to approach the SBCA/Special Court for regularization, if any, or removal of the illegal construction. He added that despite subsequent complaints, according to the petitioner, the concerned authority failed to take effective action. Reference has also been made to Civil Suit No.745/1997, its decree, execution proceedings and subsequent civil revision proceedings. The petitioner alleges that the impugned order is contrary to Articles 4, 9, 10-A and 25 of the Constitution, ignores the available record and relevant provisions of law, and has resulted in serious prejudice to the petitioner and other occupants of the apartment. It is contended that under the Sindh Building Control Ordinance, 1979, particularly Sections 6 and 7-A, construction without an approved plan is prohibited and the competent authority is empowered to demolish construction raised in violation thereof. The petitioner maintains that the respondents have failed to perform their statutory duties and seeks intervention of this Court for removal of the illegal construction from the parking area.

5. Learned counsel for the SBCA submitted that, according to the Authority's official record, approval had been granted in the name of Mr. Ghulam Hussain Lalani for construction of a Ground plus three (G+3) story residential building on a plot measuring 803.50 square yards. He submitted that a site inspection revealed that the Ground Floor was being used as occupied shops and six upper floors were existing and occupied. However, no construction activity was found in progress, and the building appeared to be old and already occupied. Learned counsel further submitted that the existing physical position, particularly the commercial use of the Ground Floor and existence of six upper floors, did not correspond with the approved plan, which permitted only G+3 floors for residential use.

6. We have heard the learned counsel for the parties present in court and perused the record with their assistance.

7. In view of the material available on record, particularly the report and submissions of the SBCA showing that the existing structure does not conform to the approved building plan and that the Ground Floor is being used for commercial purposes with six upper floors existing against the sanctioned G+3 residential plan, the grievance of the petitioner regarding alleged unauthorized construction cannot be said to be without substance. However, the determination of the legality of the existing construction, its regularization, if permissible, or demolition/removal thereof requires examination by the competent statutory

authority in accordance with the Sindh Building Control Ordinance, 1979 and the applicable rules.

8. Accordingly, the SBCA is directed to examine the matter strictly in accordance with law, conduct a proper site inspection, verify the sanctioned plan and existing construction, and, after providing an opportunity of hearing to all concerned, pass a speaking order regarding the alleged violations and take consequential action, including removal/demolition of unauthorized construction if found liable thereto.

9. The petition is accordingly disposed of with these directions.

JUDGE

JUDGE

Nadeem Qureshi PA