

IN THE SUPREME COURT OF PAKISTAN
(Original Jurisdiction)

PRESENT:

Mr. Justice Iftikhar Muhammad Chaudhry, HCJ
Mr. Justice Jawwad S. Khawaja
Mr. Justice Khilji Arif Hussain
Mr. Justice Amir Hani Muslim
Mr. Justice Ejaz Afzal Khan

Suo Moto Case No. 16 of 2011

(Implementation proceedings of
Judgment of this Court reported as PLD
2011 SC 997)

A/W

Civil Misc. Application No.1652/2013

(Action taken on news item dated
23.03.2013 published in daily "The
Express Tribune" regarding "No Go
Areas" in Karachi)

AND

Crl.O.Petition No.96 of 2012

(Senator Haji Adeel v. Raja M. Abbas, etc.)

AND

Crl.O.Petition No.29 of 2013

(Wattan Party etc. v. Federation of Pakistan etc.)

AND

Suo Moto Case No.14 of 2009

(Action taken on Press Clippings dated
05.09.2009 the Daily "The News")

AND

Civil Petition No.506-K of 2009

(Shaukat Hussain and another v. Muhammad Younas)

AND

Const. Petition No.60 of 2010

(M. Tariq Asad v. Prime Minister of Pakistan & others)

For the petitioners: Mr. Ghulam Qadir Jatoi, AOR
(in CrI.O.P.96/12)
Mr. Abrar Hassan, Sr. ASC with
Mr. A.S.K Ghorl, AOR (in CP 506-K/09)
Nemo (in CrI.O.P 29/13 & Const.P.60/10)

Applicants: Mr. Anwar Mansoor Khan, Sr. ASC
(CMA 213/2013)
Mr. Mazhar Ali B. Chohan, AOR
(CMA 219-K/2013)
Mr. Farid Ahmed Arain, Advocate
(CMA 148-K/2013)
Maulana Aurangzeb Farooqi
(CMA 108-K/2013)
Mr. Hakeem Shah and Ms. Farzana
(CMA 229-K/2013)
Syed Mehmood Akhtar Naqvi
(CMA 164-K/13 etc.)
Mr. Asghar Ali

For the respondents: Mr. Rasheed A. Rizvi, Sr. ASC
Mr. K.A. Wahab, AOR
(on behalf of Ghulam Mustafa Memon in SMC 14/09)

On Court notice:

For Federation: Mr. Syed Mohsin Imam DAG.

For Govt. of Sindh: Mr. Abdul Fatah Malik, AG. Sindh.
Mr. Shahadat Awan, PG, Sindh
Mr. Adnan Karim Memon, AAG, Sindh

For Sindh Police: Mr. Shah Khawar, ASC
Mr. Ali Sher Jakhrani, AIGP Legal
Mr. Naveed Khawaja, SP Investigation

For DG Rangers: Mr. Shahid Anwar Bajwa, ASC
Mr. K. A. Wahab, AOR with
Major Ashfaque Ahmed, DA JAG,

For Board of Revenue: Mr. Yawer Farooqui, ASC
& Land Utilization Mr. Mohammad Ahmed Pirzada, ASC with
Department Mr. Nazar Mohammad Leghari Consultant
Syed Zulfiqar Ali Shah Member.

Date of hearing: 05.04.2013

ORDER

IFTIKHAR MUHAMMAD CHAUDHRY, CJ.- Suo Motu Case

No.14/2009 relates to violation of this Court's order passed in

Crl. Petitions No.36 and 37 of 1999. Details of the same find mentioned in the following para of order dated 22.03.2013 passed in SMC-16/2011:-

"42. It is to be seen that there had been question marks on the allotments of the lands at the rates lower than market value, therefore, on 3rd January, 2001, in pursuance of Sindh Urban State Land (Cancellation of Allotments, Conversion and Exchanges) Ordinance, 2000, the allotments, conversions or exchanges of urban state lands obtained or granted for residential, commercial or industrial purposes at the rates lower than the market value in violation of law or ban from 01.01.1985 were cancelled. However, a committee under section 4(2) of the Ordinance was constituted for carrying out the purposes of the Ordinance and it was mentioned therein that after making such inquiry as is deemed fit, if the government is satisfied that the allotments, conversions or exchanges of the urban state land are obtained or granted for residential, commercial or industrial purposes at the rates lower than the market value in violation of law or ban, it shall determine the amount of loss caused to Government and call upon the person concerned to pay such amount within the specified period. The Committee so constituted, reportedly, has not concluded its task so far."

2. It is to be noted that during pendency of SMC No.14/09 Mr. Muhammad Yousaf Leghari, former Advocate General, Sindh stated that he would personally look into the matter and shall submit the report after examining each case independently. In pursuance of the order dated 6.10.2009 a report containing details of the allotments of commercial plots/residential land which were

regularized in exercise of purported power under Sindh Urban State Land (Cancellation of Allotments, Conversions and Exchanges) Ordinance, 2000 (Ordinance No.III of 2001) dated 3.01.2001 (shall be deemed to come into force from the 1st day of January, 1985) has been placed on record vide CMA No.4565/2009.

3. Yesterday i.e. 04.04.2013 during hearing of the case we were informed that the Committee constituted under Ordinance III of 2001 has so far not concluded its proceedings. In this view of the matter, we direct the Land Utilization Department to file a statement stating that out of list contained in CMA 4565/2009, how many allotment of land were in violation of law have been regularized with the reasons, particularly touching to the questions whether the allotments were made in a transparent manner or to oblige the influential persons, the government property was allotted to them at a throwaway prices. Further, whether the Committee had looked into this aspect of the case or not? The Land Utilization Department is also directed to submit statement pointing out that in how many cases of the allotment of lands have been examined and regularized in terms of sections 4 and 5 of the Ordinance III of 2001 and whether as per section 5(2) of the Ordinance, while determining the market value of the land, the principle of "willing buyer" and "willing seller" to pay the price was followed or not, which so far have been concluded. The Secretary department would also point out that out of the list, which has been provided, referred to hereinabove, about the status and the nature of the property and its present market value, notwithstanding to any of the rules or otherwise, what was the price of such land in the market; whether

any recovery has been affected after regularization from the buyers, whose cases have been regularized. He should complete this exercise before the next date of hearing.

4. Second limb of this Civil Misc. Application is with regard to transfer/allotments of the plots, which have been made after 2000 under the policy, framed in 2006, in which we have already constituted the Commission headed by Mr. Nazar Muhammad Laghari, consultant Utilization Department. He was required to submit the report within 2 weeks. He is present in the Court and stated that copy of the order dated 22.03.2013 was received by him on 28.3.2013, after that the Commission has been constituted and on or before the stipulated period, he would complete the exercise and submit the report.

5. In CMAs No. 213/13 and 219-K/2013 the High Court Bar Association and Malir Bar Association have prayed that in view of the restraining order passed by this Court for transfer of the State Land on 28.11.2012 the department is not issuing allotment order to them and that as they represent the Bar Associations who have nothing to do with the land grabbers etc; It would be appropriate to point out that vide order dated 28.11.2012 this Court passed a restraint order, which reads as under: -

“Under these circumstances, we are constrained to direct that the Deputy Commissioners/District Coordination Officers of Sindh, to ensure that immediately the entire revenue record of all the district is kept in the custody of Mukhtiarkar in terms of the directives contained in the aforesaid judgment of the High Court and shall not be removed from the office of the Mukhtiarkar to any other place. Moreover, mindful of rampant corruption and organized crime of land

grabbing, particularly, regarding prime state land, and mismanagement/forgeries in the revenue record, we hereby, until further orders restrain the Government/Revenue Department from mutation, allotment, transfer and or conversion of any state land and or keeping any transaction or entry in the record of rights in this regard in revenue record of Sindh or till the entire revenue record in Sindh is reconstructed. The conversion of lease for 30 years or of any term upto 99 years shall also be stopped immediately as by this mode the state land is being sold out at throwaway price without participation of public at large, which the law does not permit. Any further conversion or mutation of state land in the record of rights from today onwards would be deemed nullity and would expose the Deputy Commissioner/DCO of the relevant districts/dehs besides others to contempt proceedings."

Keeping in view the above directions of the Court it would not be possible to modify the order at this stage without providing the opportunity of hearing to the other sides. Let notice of both the applications be issued to Member Board of Revenue and the Land Utilization Department for the next date of hearing.

6. CMA 148-K/2013 has been filed by one Mr. Farid Ahmed Arain, Advocate who has alleged during his arguments that on account of *fearful influence of the criminals* life of his family and other residents of Al-Ahmed Heights are not protected. He stated that criminal elements, against whom FIRs have already been registered, no action is being taken by the police as a result whereof they are not only harassing his family members but also the resident of the project which are increasing day by day. Reply of this application has been submitted by Mr. Ali Sher Jakhrani, AIGP Legal through CMA 223-K/2013, wherein it has been admitted

that two FIRs being No:546/2012 under section 147/148/149/504/506-B PPC and FIR No.200 of 2013 under section 147/148/149/504/506-B/337-A (i) PPC have already been registered at PS, Gulistan-e-Johr. Mr. Naveed Khawaja, SP Investigation, East, present in Court, stated that if an opportunity is given to him, he will deal with the accused persons in accordance with law and send the compliance report to the Registrar within a period of three days. Order accordingly. In view of the assurance that he will take action against the accused persons in accordance with law, we dispose of this application.

7. Maulana Aurangzeb Farooqi, applicant in CMA 108-K/2013 has explained the atrocities being faced by the members of the Ahle-Sunnat Wal Jamat. List of the persons, who had lost their lives on different occasions has also been annexed with the application but his grievance is that neither action is being taken against the culprits involved in the commission of the offence nor the government is providing any compensation to the heirs of the victims. Similarly, so many persons belonging to their party are missing including Maulana Abdul Shakoor but the Government had not taken any measures to effect his recovery. Reply has been filed on behalf of IGP. Mr. Ali Sher Jakhrani, AIGP Legal has appeared and stated that the details of the persons who had been murdered, reference of which finds mentioned in the complaint, is not available, therefore, we direct the applicant to give details of the persons mentioned in the application and after receipt of the same IGP shall submit a comprehensive report within three days. In the meanwhile notice be issued to the Advocate General, who is present

in Court and waives the notice, to file the reply, particularly, pointing out that as to why compensation has not been paid as being given to the other persons, who had lost their lives in such like incidents. The government may also file reply within the same stipulated period, which shall be placed before us for our perusal in Chambers.

8. CMA No.390-K/2012 is dismissed as not pressed.

9. CMA No.229-K/2013 has been filed by Hakim Shah, who stated that his son Juma Sher Khan @ Shera Pathan allegedly murdered along with Arshad Pappu but uptil now he has no knowledge about his dead body etc. In this case we have already passed orders directing Mr. Shahid Hayat, DIGP South Karachi, to complete investigation. Notice of this application be also issued to Advocate General and IGP to look into this matter and submit report within three days. Copy of the report shall be delivered to the applicant at his residence.

10. On 04.04.2013 reports submitted by the police in response to order dated 29.03.2013 was rejected and directions were issued to comply with the order by placing on record the affidavits testifying by SHOs, DSPs, SSPs about the existence or otherwise of the 'No-Go' areas and if it is concluded that the 'No-Go' area exists, then the reasons should be given as to why they have failed to maintain the writ of government in the said areas. A report (CMA No.233-K/2013) has been submitted without complying with the direction. The report submitted is not acceptable, therefore, is hereby rejected. However, the IG Police is

directed to convene a meeting with all the SHOs, DSPs, SSPs, DIGs and after having gone through the order of this Court carefully obtain the required affidavits from them and file the same within a period of three days for our perusal in Chambers.

11. Learned Advocate-General stated that Government of Sindh had terminated the contract of 94 persons other than who were working on the contract of re-employment. He has placed on record the notification of the persons whose contracts have recently been terminated, we appreciate, that Government of Sindh, recall the illegal appointment order.

12. M/s Asghar Ali and others appeared and stated that their property has been taken over by the land grabbers/encroachers. The office is directed to register their application as Civil Misc. Application. Notice of the same be issued to the SP Anti-Encroachment Cell as well as to Advocate-General, Sindh, to file their reply as to why action has not been taken if the allegations mentioned in the application are correct.

13. Vide our order dated 04.04.2013 we directed to place on record FIRs registered at four police stations of Lyari area along with report as to how many accused persons nominated in the FIRs have been arrested, if any accused has not been arrested so far, reason for the same may also be submitted. Further, SP Irfan Bahadur of Anti Encroachment Cell was directed to submit list of cases filed against him along with documents in Civil Courts and High Court and the learned DAG to submit report about

encroachment of 15 acres of land in Qayoomabad. We will take up these issues on the next date of hearing.

14. The Court time is over, therefore, we postpone the hearing of the matter for **16.04.2013 at Islamabad**. In the meanwhile Rangers and Police Department, as we have already directed on 04.04.2013, shall submit the reports. All the concerned authorities are directed to submit their compliance reports well in time before the next date of hearing.

Chief Justice

Judge (3)

Judge (5)

Judge (9)

Judge (10)

Karachi, the
5th April, 2013
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