

**ORDER SHEET.**

**IN THE ISLAMABAD HIGH COURT, ISLAMABAD.**  
**JUDICIAL DEPARTMENT.**

**W.P No.221/2019.**

**Shah Sawaar Shah**

**versus**

**Capital Development Authority, Islamabad etc.**

<b>S. No. of order/ proceedings</b>	<b>Date of order/ Proceedings</b>	<b>Order with signature of Judge and that of parties or counsel where necessary.</b>
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**01.**            **27.01.2020**            **Mr. Muhammad Arqam Arshad, Advocate for the petitioner.**

Through this writ petition, the petitioner has assailed three notices dated 22.01.2020, issued by Director of Municipal Administration Metropolitan Corporation Islamabad, whereby the petitioner has been directed to remove the encroachments from the state land of Saidpur Village, Islamabad.

2.    Learned counsel for the petitioner inter-alia contends that the petitioner’s forefather were resident of village Said Pur and their land was acquired by the CDA in the year 1969; that the petitioner is running different stalls including construction material, Chappher hotel and saloon in the name and style of Nadeem Hairdresser in the vicinity of Saidpur village; that the CDA has allowed the petitioner for running these businesses and as such the notices impugned before this Court are contrary to law and no action can be initiated against the petitioner.

3.    I have heard learned counsel for the petitioner and gone through the record.

4.    Perusal of the record reveals that the petitioner has called in question three different notices issued by Director of Municipal Administration Metropolitan Corporation, Islamabad against the petitioner regarding his encroachment upon the state land of

Saidpur village, where he is running businesses of construction material, hotel and saloon. The impugned notices spell out application of Islamabad Capital Territory Local Government Act, 2015, as such the concerned authorities have already visited the place and verified the facts that petitioner has encroached upon the state land, therefore, he was given a final notice for removal of encroachment as no valid license or permission was ever been granted to the petitioner to place any stall, hotel or kiosk on the state land without the procedure provided in the Islamabad Capital Territory Local Government Act, 2015.

5. The petitioner has been given time for removal of encroachment in compliance of the law but he has assailed the notices before this Court in terms of Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, which provides a legal protection against actions taken otherwise than in due course of law and as such, in exercise of jurisdiction of judicial review of administrative/public actions, the High Court is required to see whether functionaries of the State in connection with affairs of Federation, Province or local authorities have done things in accordance with law in concept of check and balance, which is integral part of concept of separate power as enshrined in the Constitution.

6. The petitioner has failed to demonstrate any of his legal right to use the state land nor he has any proof of license, permission or allotment, whereas the land of village Saidpur is acquired property and Metropolitan Corporation in terms of Section 73 of the Islamabad Capital Territory Local Government Act, 2015 read with powers available in the third schedule *prevent and remove the encroachment* can initiate legal

proceedings to prosecute such encroachers to protect the state land by all means.

7. Moreover, Section 116 of Islamabad Capital Territory Local Government Act, 2015 provides remedy to the aggrieved person to file an appeal against any order passed by the Local Government or its functionaries to the authority. The instant writ petition is not maintainable on this score also. The petitioner has failed to establish any of his legal right under Islamabad Capital Territory Local Government Act, 2015 through any documentary evidence to claim the use of state land under any license or allotment nor he justifies his business activities on the state land.

8. In view of above discussion, the instant writ petition is not maintainable, therefore, the same stands **DISMISSED** *in limine*.

**(MOHSIN AKHTAR KAYANI)**  
**JUDGE**