

Form No: HCJD/C-121
ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
(JUDICIAL DEPARTMENT)

W.P. No. 111/2021

Uzair Ahmed, etc.

Versus

Defence Housing Authority, etc.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	08-03-2022	Syed Riaz Hussain, Advocate for petitioners. Ch. Sajid Abdullah Sraa, Mr Hasnain Haider Thaheem, Sardar M. Haroon Sami, Advocates fo respondents.

Athar Minallah, C.J.- The petitioner has invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 assailing order, dated 25-11-2021, passed by the learned Civil Judge 1st Class (East), Islamabad.

2. It is noted that the suit filed by the Defence Housing Authority is pending before the learned trial court. The petitioner had filed an application under Order 1 Rule 10 of the Code of Civil Procedure, 1908 (*hereinafter referred to as "CPC"*) praying therein that he may be impleaded as one of the respondents. The suit has been filed

against the National Highway Foundation. In response to a query, it was admitted that the layout plan of the housing scheme being developed by the latter was approved by the Capital Development Authority. Since the layout plan was approved, therefore, the revenue record was not relevant in order to determine whether the petitioner had an interest in the pending suit. Admittedly, the layout plan has been approved and the dispute is regarding the same land regarding which allotment letters have been issued to the petitioner.

3. In the facts and circumstances of the case in hand, the petitioner is a necessary and proper party in terms of Order 1 Rule 10 of CPC and, therefore, he ought to have been impleaded as one of the respondents. The learned counsel who has appeared on behalf of the Defence Housing Authority, taking a fair stance, has not opposed if the petitioner is impleaded as one of the respondents.

4. For the above reasons, the petition is allowed and the impugned order, dated 25-11-2021, is hereby set aside. The application filed by the

petitioner under Order 1 Rule 10 of CPC shall be treated as pending. The learned trial court is, therefore, expected to allow the application and thereafter direct the respondent Authority to implead the petitioner as one of the defendants.

(CHIEF JUSTICE)

Luqman Khan/*