

ISLAMABAD HIGH COURT, ISLAMABAD,  
JUDICIAL DEPARTMENT.

**Malik Waheed Akhtar Vs. Capital Development Authority through its Chairman, Islamabad etc.**

**Respondents by:** Mr. Khalil ur Rehman Abbasi, Raja Aleem Khan Abbasi and Mr. Abdul Wahid Qureshi, Advocates. Faraz Malik, Director, Housing Societies. CDA.

**MOHSIN AKHTAR KAYANI, J:-** Through the instant writ petition, the petitioner has prayed for following relief:-

iv. *That the areas allocated for part be restored to the original shape of a park in accordance with the layout plan at the cost of those who violated them."*

2. Learned counsel for the petitioner contends that respondent No.4 in connivance with respondent No.3 has changed the public park and converted it into commercial plot adjacent to Street No.1, Sector G-15/3, Jammu Kashmir Cooperative Housing Society; that immunity plots cannot be converted or changed unless objections are invited and decided by the CDA. In this regard learned counsel for the petitioner has relied upon **PLD 1994 SC 512 (Abdul Razzaq vs. Karachi Building Control Authority)**, **1999 SCMR 2883 (Ardeshir Cowasjee vs.**

**Karachi Building Control Authority) and PLD 2013 Islamabad 49 (Muhammad Raza and others vs. Jammu Kashmir Cooperative Housing Society and others).**

Lastly it has been contended that conversion of immunity plots is in violation of regulation 2(b)(iv) of the Islamabad Capital Territory (Zoning) Regulations 1992, which denotes that development of scheme shall be in accordance with layout plan, service plan and building plan as approved by the authority as such the regulations have been violated.

3. Conversely, learned counsel for CDA contends that the respondent society has violated the layout plan as a whole and in this regard a report has been prepared; that the park in question has been approved in the layout plan dated 25.04.2002 by the CDA and no plot was in existence at the time of its approval adjacent to street No.1, however, Director, Housing Societies, CDA contends that some plots have been shown on the main road side, which is meant for residential apartments/buildings.

4. Learned counsel for Jammu & Kashmir Cooperative Housing Society and respondent No.4 contends that the plots were already notified in the layout plan in the year 2002, however, specific area marking and numbering have been allocated later on, whereby plots No.5, 6 & 7 Sector G-15/3 were allotted to respondent No.4 and the possession was delivered on 24.04.2017; that commercial building plan has already been approved on 21.06.2017, where-after building has been constructed in accordance with approved plan as such the park has not been interfered or encroached upon in any manner.

5. I have heard the arguments and gone through the record.

6. Perusal of the record reveals that main bone of contention between the parties is plots No.5, 6 & 7 Sector G-15/3 allotted to respondent No.4 by respondent No.3, whereby respondent No.4 has constructed building in accordance with approved building plan, however, approved layout plan of the society has been placed on the record, which reveals that same was approved on 25.04.2002 by the CDA and commercial plot site is in existence next to the park of main road,

however, there is no plot of commercial or of any other nature in street No.1 next to the park. The Google images for the years 2002 till 2019 have been placed on the record, which confirm that the plot was in existence and same was constructed with its front on main double road, whereas the park land is still lying open and the park has not yet been established by the Jammu & Kashmir Cooperative Housing Society.

7. Respondent No.3/ Jammu & Kashmir Cooperative Housing Society has taken specific stance that in initial layout plan commercial plots were in existence, which have been allotted to respondent No.4, however, they further contends that they have submitted amendment and rectification in the layout plan of the society, which is pending since 2011 and same has not yet been decided.

8. Learned counsel for respondent No.3 further contends that they have followed approved layout plan in strict sense in terms of Land Used Analysis and no violation has been committed but their amendment and rectification in layout plan is yet to be decided, whereby CDA has claimed an amount of Rs.26,00,00,000/- and an application for correction of the figure is also pending before CDA.

9. Whereas learned counsel for CDA and the Director, Housing Societies, CDA in attendance have been confronted, whereby they have candidly conceded that the plot facing the double road next to the park is in existence in approved layout plan dated 25.04.2002 and the park is situated adjacent to street No.1 as such the approved layout plan has not been violated although the Director, Housing Societies, CDA has taken plea that the plot which was in existence in layout plan dated 25.04.2002 is for apartments/building, however, he has failed to produce any document through which his contention can be justified or substantiated.

10. In view of above discussion, the instant writ petition bears no merits, therefore, the same is hereby dismissed as no violation has been noted by this Court to the extent of plots No.5, 6 & 7 Sector G-15/3 owned by respondent No.4, however, the respondent society is directed not to interfere into the amenity plot i.e.

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park, which is designated place and CDA is directed to protect amenity plot by all means as the land of park belongs to CDA under the terms of approved layout plan. The respondent society is also directed to establish park as per approved layout plan dated 25.04.2002 within period of 06 months from the date of passing of this judgment under intimation to this Court.

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

R.Anjam