

Form No: HCJD/C-121
ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

F.A.O No. 01 of 2020

Dr. Raheem Awan
Vs
Afzal Ahmed and others

| S. No. of order/ proceedings | Date of order/ proceedings | Order with signature of Judge and that of parties or counsel where necessary. |
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02. 16-01-2020. Mian Abdul Rauf, Advocate for the appellant.

Through this appeal, the appellant has assailed order, dated 23.12.2019 passed by the learned trial Court whereby application under Order XXXIX, Rules 1 and 2 of the Code of Civil Procedure, 1908 has been dismissed.

2. The learned counsel has been heard at length. The impugned order does not appear to have ^{been} passed by exercising discretion arbitrarily or in a fanciful manner. Moreover, the principle of lis pendence is attracted in this case. The learned counsel has stated that illegal construction is being done by respondent no.22. He has placed reliance on the judgment of this Court, dated 09.07.2018, passed in W.P No. 676/2017 [Shahzada Sikandar ul Mulk and others vs. Capital Development Authority and others] in support of his contention that the

construction being done is in violation of the statutory provisions.

3. In view of the above, this Court is not inclined to interfere with the well reasoned impugned order. Nonetheless, if the petitioner is aggrieved because the provisions of the Capital Development Authority Ordinance, 1960 and the regulations made thereunder are being violated, then the proper course for him is to approach the competent authority of the Capital Development Authority. This petition is without merit and, therefore, accordingly dismissed.

CHIEF JUSTICE

Saeed