

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

W.P. No.3625/2014

Mehboob ur Rehman
Versus
National Highway Authority, etc.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	<u>19-09-2022</u>	Mr Muhammad Rustam Malik, Mr Shakir Javed, Advocates for petitioner. Sardar M. Usman Sami, Advocate for respondent.

Athar Minallah, C.J.- The petitioner has invoked the jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 seeking direction to the National Highway Authority (*hereinafter referred to as the "Authority"*) to issue the final No Objection Certificate (*hereinafter referred to as "NOC"*) and deliver possession of the property.

2. Briefly stated, the facts are, that Muhammad Sohaib Murtaza Khan (i.e. respondent no.2) had entered into a lease agreement with the Authority for establishing a filling and CNG station on a property described as KM 1505 +050, Chakwal Morr, Mandhra North Bound Carriage Way on N-5 (*hereinafter referred to as the "Property"*). The lease agreement executed with the respondent no.2

was transferred in the name of the petitioner vide lease agreement, dated 29-03-2006. Subsequently, corrigendum lease agreement was executed between the parties on 07-06-2006. The competent authority for issuance of final NOC was the District Coordination Officer, Rawalpindi. The latter has refused to issue the NOC.

3. Perusal of the comments filed by the respondent Authority shows that the dispute has not been resolved with the Government of the Punjab. The District Coordination Officer, Rawalpindi has refused to issue the final NOC pursuant to the decisions and policies of the Government of Punjab. It is the stance of the Government of Punjab that the latter has the power and jurisdiction to regulate the affairs on N-5.

4. The Property is situated outside the territorial jurisdiction of this Court. Moreover, the competent authority to issue the final NOC is the District Coordination Officer, Rawalpindi. The latter has refused to issue the final NOC because of the dispute between the Government of Punjab and the respondent Authority. The lease agreement obviously cannot be executed by the respondent Authority unless the disputed with the Government of Punjab has been resolved and the District

Coordination Officer, Rawalpindi has issued the NOC. The Government of the Punjab and the District Coordination Officer, Rawalpindi are outside the territorial jurisdiction of this Court and, therefore, a writ cannot be issued directing them to resolve the disputes nor to issue the final NOC. The Property is also not owned by the petitioner regarding which the lease agreement has been executed. As already noted, the execution of lease agreement is subject to fulfillment of certain mandatory requirements, inter alia, issuance of the NOC by the District Coordination Officer, Rawalpindi and settlement of the disputes between the respondent Authority and the Government of Punjab. The lease agreement in itself is, therefore, not executable.

5. For the above reasons, the petition is meritless and, therefore, accordingly dismissed.

(CHIEF JUSTICE)