

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

WRIT PETITION NO. 4126 OF 2015

Raja Zahoor Ahmed

Vs

Capital Development Authority, etc.

PETITIONERS BY: Mr. Mansoor Ahmed, Advocate for petitioners in Writ Petitions No. 4126, 4127, 4128, 4129 and 4133 of 2015.
Mr. Muhammad Ikram Chaudhry, Advocate for petitioners in WPs No. 3574, 3576 & 3578 of 2015.
Mr. Mir Afzal Malik, Advocate for petitioner in W.P No. 1018/2019.
Syed Usama Shah, Advocate for petitioner in Civil Revisions No. 315 and 423 of 2016.

RESPONDENTS BY: M/s Aamir Latif Gill, Reehan Seerat, Syeda Rida-e-Batool and Ch. Kamil Hayat, Advocates.

DATE OF HEARING: 16.02.2021.

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BABAR SATTAR, J.- Through this judgment the instant writ petition along with the connected petitions listed as Annexure-A are being decided as they involved common question of law and facts.

2. Brief facts of the case are that the petitioners claim that their properties in Street No. 55, Sector G-9/4 Islamabad stand commercialized on the basis of a decision of the Board of Directors ("**Board**") of the Capital Development Authority

("Authority") dated 13.02.1995 and that they cannot be asked to pay commercialization fee in lieu of such commercialization. Writ Petitions No. 3574, 2576, 3578, 4127, 4128, 4129, 4133 of 2015 and 1018/2019 were filed against the notices issued by the Capital Development Authority ("**CDA**") for non-conforming use of the properties. Civil Revisions No. 315 and 423 of 2016 have been filed against the order dated 13.05.2016, whereby the learned Civil Judge First Class West-Islamabad dismissed the application under Order XXXIX, Rules 1 and 2 of CPC filed by the petitioner/plaintiff along with the suit seeking declaration that the suit properties have acquired commercial character.

3. Learned counsel for the petitioner states that on 13.02.1995 the CDA Board authorized the commercial use of houses in Street No. 55, Sector G-9/4, Islamabad, commercialization fee of Rs.3600/- per square yard was also adjudged pursuant to such decision. He states that the decision was a matter of public knowledge as it was reported in the newspapers on 12.07.1995. The learned counsel then states that on 07.10.1995 the Board rescinded the decision dated 13.02.1995 on the basis that the rate to be charged for commercialization had not been finalized, which reason was incorrect in view of the facts. That during interregnum the petitioners filed applications for commercialization of their plots along with the request that commercialization fee be reduced. That subsequently notices for non-conforming use of properties were issued to the petitioners who then filed the instant petitions and the Court granted injunctive relief and consequently the petitioners have continued the commercial use of their

properties. Learned counsel for the petitioner presented the following formulations:

(i) There is a difference between commercialization of an individual plot and commercialization of an entire area. In the event of the commercialization of an entire road or area, CDA is not entitled to charge commercialization fee as such fee is payable in lieu of conversion of the status of property from residential to commercial use which does not apply where the entire area/road stands commercialized.

(ii) The decision of CDA Board dated 07.10.1995 rescinding the decision dated 13.02.1995 was in fact a repeal of Regulations of CDA for purposes of section 6 of the General Clauses Act, 1897, and such repealed decision could only be given effect prospectively and even then the rights that already stand accrued would need to be protected.

(iii) The decision of the CDA Board dated 07.10.1995 and 02.12.2019, which were issued on the basis that decision dated 13.02.1995 that allowed the commercialization of the property in question was in violation of the Masterplan is misconceived, as the CDA has the authority under section 12 of the Capital Development Authority Ordinance, 1960 ("**Ordinance**") to frame schemes and further it has power under section 51 of the Ordinance to promulgate regulations for purposes of zoning and land use and it was in exercise of such statutory authority that the decision dated 13.02.1995 was taken.

(iv) CDA approved commercialization of Industrial and Trade Centre ("**I&T Centre**") which is right in front of Street No. 55, G-9/4, Islamabad whose use was changed to commercial by the CDA subject to a charge of Rs.800/- per square yard and not meting out the same treatment to the petitioners is discriminatory and in breach of Articles 4 and 25 of the Constitution.

(v) Street No. 55, G-9/4, Islamabad has already acquired commercial character due to existence of I&T Centre and that the properties of the petitioners cannot be used for residential purposes in view of change of character of the said area.

4. Pursuant to these formulations the learned counsel for the petitioners submits that (i) the properties in question already stand commercialized by the CDA by decision dated 13.02.1995 and the repeal effect of CDA decision dated 07.10.1995 can only be applied prospectively and cannot take away vested rights of the petitioners, (ii) the petitioners are liable to pay no commercialization fee, and even in the event that any fee can be charged, it can be no greater than that applied for purposes of commercialization of the I&T Centre, (iii) the petitioners cannot be forced to apply a ten feet setback at the front as well as back boundaries of their properties as the same rule has not been applied to the I&T Centre.

5. Learned counsel for the petitioner in W.P No. 1018 has adopted the arguments of the learned counsel for the petitioners in Writ Petitions No. 4126, 4127, 4128, 4129 and 4133 of 2015.

6. Learned counsel for CDA in the Writ Petitions submits that the petitioners' story is self-contradictory as they never accepted the commercialization decision dated 13.02.1995 and actually filed representations against the commercialization fee proposed as noted in their own pleadings. Consequently, they cannot claim to have any accrued rights in pursuance of a decision or policy that they neither accepted nor derived any benefit from at the relevant time. That no rights were created in favour of the

petitioners and none were secured by the petitioners and consequently the principle of locus poenitentiae is not attracted. That the petitioners never took any step pursuant to commercialization decision due to which CDA would be estopped from reversing its decision. He argued that the decisions of the Board are not regulations for purposes of section 51 of the CDA Ordinance as regulations promulgated need to be notified in the gazette and ordinary Board decisions cannot be deemed to be regulations. He relied on Col. (R) Javed Agha v. Arshad Mahmud (2017 MLD 627) to state that this Court had clarified the law in relation to non-conforming use and that the petitioners were admittedly using their properties in a non-conforming manner and being in breach of the law could not seek exercise of this Court's equitable jurisdiction having not come to this Court with clean hands.

7. Learned counsel for CDA in Civil Revisions No. 315 and 415 of 2016 states that the decision of the Board dated 13.02.1995 was rescinded on 01.10.1995 for being in violation of provisions of the Ordinance and regulations framed thereunder and such order suffering from illegality could neither create any rights for the petitioners nor is the principle of locus poenitentiae applicable in this case. For this argument he relied on Government of the Punjab, Education Department vs. Muhammad Imran (2019 SCMR 643) and Muhammad Sidiq through L.Rs vs. Punjab Service Tribunal, Lahore (2007 SCMR 318). He then submitted that under section 19 of the Ordinance, CDA could alter a sanctioned scheme and distinction needs to be drawn between change of trade of a commercial property and

change of land use from residential to commercial purposes. That while CDA was authorized to allow the change of trade under Regulation 6(2) of the Islamabad Land Disposal Regulations, 2005 it could not order the change of use of property from residential to commercial in breach of sanctioned master plan enacted under the Ordinance ("**Masterplan**"). He cited Human Right Case No. 4668 of 2007 (PLD 2010 SC 759) in reliance. He further stated that a judicial order in the instant cases could only be issued to protect and preserve established rights and not to seek establishment of new rights. That the petitioners had no vested right to employ their residential properties for commercial purpose, they had no right to commercial use of their properties under the Ordinance and they could not ask this Court for creation of such right. He also stated that the petitioners were delinquent in terms of use of their properties as they were admittedly using the same for commercial purposes without any authorization from CDA and could not seek an equitable remedy from this Court. He further stated that within the Masterplan each sector has a main Markaz as well as three Class C shopping areas and that the distance between the shops of class C shopping area and the neighboring residential properties across various sectors is no greater than that between the I&T Centre and the properties of the petitioners. And thus if the petitioners' arguments are to be accepted and their properties accorded commercial status due to close proximity to the sector's notified commercial area, every residential property near in the vicinity of a Markaz or class C shopping center in any sector would have the right to make a

similar claim which would open the floodgates of commercialization. He finally submitted that the law in relation to non-conforming use has been authoritatively settled by the august Supreme Court and this Court in various judgments and CDA is under direction to ensure that there is no non-conforming use of residential properties. That the scheme of the Ordinance and manner in which the Masterplan is to be given effect and schemes created thereunder was delineated by this Court in Shahzada Sikandar ul Mulk v. Capital Development Authority (PLD 2019 Islamabad 365) which was subsequently upheld by the august Supreme Court and the law on the issue of non-conforming use in breach of the Masterplan is now settled. He prayed for the Civil Revisions to be dismissed.

8. The judgments relied upon by the learned counsels for the petitioners are distinguishable and do not help the petitioners. Aslam and others v. Karachi Building Control Authority and others (2005 CLC 759), Zainab Garments (Pvt.) Ltd through Chief Executive and others v. Federation of Pakistan through Secretary, Ministry of Housing and Works and another (PLD 2010 Karachi 374) and Amber Alibhai and 6 others v. Muhammad Ghulam Jan Muhammad and 10 others (2016 MLD 1208) all deal with situations where certain area falling within the domain of Karachi Building Control Authority had been declared as commercial in accordance with due process and in compliance with the provisions of law. The learned Sindh High Court held that in such case individual property owners did not need to seek change in the status of their properties individually and also did not need to pay commercialization fee for change of land use, as

such status change had already been affected once the whole area had been declared as commercial. In the instant case the petitioners are seeking change of status of their properties from residential to commercial and they do not fall within the commercial area of Sector G-9 in accordance with the Masterplan. Aftabuddin Qureshi and others v. Government of Sindh, Secretary, Housing and Town Planning and others (2003 MLD 661) is a case where ban had been imposed by the provincial government on new commercialization as a policy decision even though there was no prohibition against such commercialization in law and surrounding buildings also stood commercialized. In view of such facts, the learned Sindh High Court had directed that commercialization applications be decided notwithstanding the policy decision banning fresh commercialization. The scheme of the Ordinance that applies to the instant case is completely different, as will be discussed later in this judgment, and the Authority has no power to convert the status of residential properties to commercial property except in accordance with the Masterplan and the master-programme approved in accordance with section 11 of the Ordinance. In Sheikh Naeem Ahmed and others v. Province of Sindh and others (2006 CLC 1231), the learned Sindh High Court held that once the plot of the petitioner had been commercialized by virtue of notification issued by the provincial government, the petitioner was free to construct a commercial building on his plot and there was no question of paying any commercialization fee. In Mst. Shamim Mazhar Abbasi v. Secretary Local Government and Community Development Department, Lahore and 2 others

(PLD 2012 Lahore 80), the learned Lahore High Court held that where byelaws do not require surrender of land to establish set back outside a commercial building and no such set back had been left by other buildings in the same vicinity, the imposition of requirement to establish such set back was illegal. In the present case the question of commercialization fee or additional requirements for purposes of commercialization does not arise given that the Authority had no power to transform status of the property in-question from residential to commercial. In Mrs. Farida and others v. New Allied Electronics Industries (Pvt.) Ltd. and others (2009 YLR 1896), the learned Sindh High Court held that under the Karachi Building and Town Planning Regulations, 2002, the decision to order commercialization was the prerogative of the executive authority and the court would not interfere where such power had been exercised in accordance with the provisions and requirements of law. Government of Pakistan through Secretary Board of Revenue, Hyderabad v. Niaz Ahmed and others (1991 SCMR 2293) reiterated the principle of locus poenitentiae and held that where vested rights were created between the date of decision and its revocation such rights were to be protected. In the present case no vested right was created as the Authority had no discretion to transform the status of property in question from residential to commercial and even during the period that the misconceived decision of the Board to permit commercialization in Sector G-9 was in the field, none of the petitioners took any decisive step under the said decision prior to its revocation in view of which they could claim that their rights were crystallized under valid Board decision

while it was still in the field. Makhdoom Muhammad Mukhtar, Member Provincial Assembly v. Province of Punjab through Principal Secretary to Chief Minister, Punjab and 2 others (PLD 2007 Lahore 61) also dealt with the principle of locus poenitentiae wherein the learned Lahore High Court held that the cancellation of a scheme for widening metalled road approved in accordance with law could not be permissible where decisive steps had been taken by the highest functionaries of the province creating legitimate expectancy that the scheme would be implemented. As will be explained in more detail later in his judgment, the principle of locus poenitentiae is not attracted to the facts and circumstances of the matter before this Court. The learned counsel for the petitioners cited Isamdad Khan and another v. Muhammad Khurshid Khan and another (2012 MLD 1635) and Dr. Mukhtar Ahmed Shah and others v. Government of the Punjab and others (PLD 2002 SC 757) for the proposition that in view of section 6 of the General Clauses Act, 1897 repeal of law cannot have retrospective effect. The argument of the learned counsel for the petitioners was that the decision of the Board had the status of law being akin to Regulations promulgated under section 51 of the Ordinance and consequently even when the Board repealed such decision it would be applied prospectively. The proposition is misconceived because, as explained later in the judgment, the Board decision was not law for purposes of the Ordinance and was only an erroneous decision rendered in breach of the provisions of the Ordinance and by recalling such decision the Board had corrected its mistake and not repealed any law.

9. The argument of the learned counsel for the Petitioners that the decision of the Board dated 13.02.1995 be treated as a regulation, because every decision of the Authority has the status of a regulation as it is the same Authority that is vested with the power to promulgate regulations under Section 51 of the Act, is hopelessly misconceived. The Authority is constituted under Section 4 of the Ordinance. Section 5 vests in the Board, which constituted under Section 6, the general direction and administration of affairs of the Authority and the mandate to exercise the powers of the Authority. The executive powers of the Authority under various provisions of the Ordinance cannot be confused with the sub-legislative power to frame regulations vested in the Authority under section 51 of the Ordinance.

10. Section 51 of the Ordinance states that:

"The Authority may make regulations, not inconsistent with the rules, if any, on all matters for which regulations are necessary or expedient; and such regulations shall be published in the official Gazette."

The decisions of the Authority in exercise of executive powers vested by the legislature in the Authority under the Ordinance is not tantamount to exercise of sub-legislative power vested in the Authority under section 51 to frame regulations. That the body vested with the authority to exercise the said executive and sub-legislative powers is the same does not merge these distinct powers into one and the same.

11. Under the scheme of our Constitution, the legislative power belongs to the legislature. The legislature where it is deems expedient sub-delegates such power to a statutory body.

Statutory bodies ordinarily fall within the province of the executive. The sub-legislative power when delegated to the federal government or a statutory body to frame rules and regulations is to be exercised within limits prescribed by the law delegating such power. Statutes also vest executive powers in statutory authorities they create. But such power belongs to the executive and it is the scope of such power and manner of its exercise etc. that is regulated by statute. The principles that determine the legality of sub-legislative and executive powers of a statutory authority are different. The sub-legislative power, if exercised in a manner that travels beyond the four corners of the parent statute becomes illegal on the basis of the doctrine of ultra vires. In reviewing the legality of such power, it is not ordinarily for the courts to question their reasonability. The executive authority vested in a statutory body comes with a zone of discretion, which can be subjected to judicial review if found to be unjust, unfair and unreasonable.

12. The sub-legislative power once exercised also binds the authority promulgating the rules and regulations. In the instant case, the Authority is bound by regulations framed under Section 51 and such regulations then guide the exercise of executive powers by the Authority under the Ordinance. Merely because it is the Board that acts in the stead of the Authority while framing regulations and also while exercising executive authority under provisions of the Ordinance does not allow the Board or the Authority to disregard the regulations. The reason is simple: regulations that are promulgated in accordance with provisions of the Ordinance acquire the status of law and regulate

discretionary executive authority that is exercised by the Authority.

13. There are two main reasons why sub-legislative power and executive power of the Authority cannot be confused: one, the source of the power, the pillar of the state that such authority belongs to and the principles regulating its legality are different; and two, there is a mandatory requirement to publish laws that is attracted in case of regulations under Section 51 of the Ordinance as well as Section 20A of the General Clauses Act, without complying with which regulations are not accorded the status of law. The purpose of publication is to ensure that citizens are aware of the rules that regulate and bind their actions so that they are aware of their rights and obligations and can order their affairs accordingly.

14. Let us look at case law where superior courts have explained the need and rationale for delegated legislative authority in its historical background:

I. Zarai Taraqati Bank Limited And others V. Said Rehman and others (2013 SCMR 642)

"15. Historically statutory rules and orders were the means by which delegated legislation used to be made in United Kingdom. The Rules Publication Act 1893 in England defines "rule making authority" to include every authority authorized to make any statutory rules. Statutory rules are defined as rules, regulations or by-laws under any Act of Parliament, in England. Orders are excluded from the statutory definition of statutory rules as being administrative. In England regulation is the term most popularly understood and the one favoured by the Committee on Ministers'

Powers, who suggested that regulations should be used for substantive law and rules for procedural law, while orders should be reserved to describe the exercise of executive power or the taking of a judicial or quasi-judicial decision (See Craies on Statute Law, 7th Ed. At p. 303). The validity of statutory instruments is generally a question of vires, i.e., whether or not the enabling power has been exceeded or otherwise wrongfully exercised¹."

16. The "rules" and "regulations" framed under any Act are meant to regulate and limit the statutory authority. All statutory authorities or bodies derive their powers from statutes which create them and from the rules or regulations framed thereunder. Any order passed or action taken which is in derogation or in excess of their powers can be assailed as ultra vires. Rules and regulations being forms of subordinate legislation do not have substantial difference as power to frame them is rooted in the statute. Statutory bodies are invariably authorized under the Act to make or adopt rules and regulations not inconsistent with the Act, with respect to such matters which fall within their lawful domain to carry out the purposes of the Act."

II. Muhammad Amin Muhammad Bashir Limited v. Government of Pakistan (2015 SCMR 630)

"The principles of delegated legislation are very clear and hardly require any reiteration by us at this late stage. In brief, they entitle the delegate to carry out the mandate of the legislature, either by framing rules, or regulations, which translate and apply the substantive principles of law set out in the parent legislation or by recourse to detailed administrative directions and instructions for the implementation of the law. They are intended to enforce the law, not override it. They can fill in details but not vary the

underlying statutory principles. In case of conflict, they must yield to the legislative will. They are below and not above the law. The minutiae can be filled in but the basic law can neither be added to nor subtracted from."

III. Messrs Mustafa Impex, Karachi And others V. The Government of Pakistan Through Secretary Finance, Islamabad (2016 P T D 2269)

"...in a Parliamentary system, the Federal Government consists of the Prime Minister and Cabinet who are elected under the Constitution and they run the business of the State. In doing so, they have to exercise executive authority. Within the realm of such executive authority, they may also be called upon by law to exercise legislative functions also known as delegated legislation and quasi-judicial functions as well.

It is inconceivable that on account of the fact that the Rules of Business cover legislative work they could also be deemed to confer power on the Executive to enact legislative measures. All statutory rules, including those of a fiscal nature, are subordinate legislation. The power to enact subordinate legislation has to be conferred by substantive law. The Rules of Business, which merely regulate procedural modalities, cannot conceivably do so.

IV. Punjab Healthcare Commission V. Mushtaq Ahmed Ch. (PLD 2016 Lahore 237).

"Both Rules and Regulations advance and carry out the purposes of the Act. They also undergo a legislative process of previous publication with draft thereof to be published in the official gazette for eliciting public opinion. Subordinate legislation like legislation must entail public participation and official publication through gazette notification.

Administrative orders or directives of any authority including the Commission, on the other hand, are passed internally by the authority and, therefore, have an internal application. They, at best, constitute guidelines or directions for the Commission itself but do not bind any individual or any third party, as they do not pass for a "law."

15. The rationale for publication of rules and orders in order for them to have binding effect has been explained thus:

I. The Province of East Pakistan V. Major Nawab Khawaja Hasan Askary and others (PLD 1971 Supreme Court 82)

"Under section 114(E) of the Evidence Act, there is a presumption that all judicial and official acts have been regularly performed. Monir, in his Principles and Digest of the Law of Evidence Act (4th Edition), at p. 682, has stated as under:

"There is no presumption under section 114(E) that any publication has been made under section 272 or under section 234 of the Bengal Municipal Act or under section 99, Bengal Cess Act, or under Rule 119 of the Defence of India Rules. But when an order is proved to have been published in the Gazette, it may be presumed that the publication of the order was in accordance with the Rules. The onus of proving that an order under Rule 56 of the Defence of India Rules was lawfully issued by an officer properly empowered is on the prosecution and a mere statement by the Sub-Inspector that such an order was published cannot lead to the presumption that the requisite order must have been made by a

competent authority. But when once a publication under a Municipal or Local Boards Act is proved, there is a presumption that the publication was made after the necessary formalities. Where an officer has himself signed a notification which is published in the Gazette, it must be presumed that the publication is in the manner in which the officer has directed it to be."

II. Muhammad Suleman Etc V. Abdul Ghani (PLD 1978 Supreme Court 190)

"...it is well settled as laid down in Sh. Fazal Ahmad v. Raja Ziaullah Khan and another (PLD 1964 SC 494) and Sh. Rehmatullah v. The Deputy Settlement Commissioner, Centre 'A', Karachi and others (PLD 1963 SC 633) that such notifications which curtail or extend rights of the citizens, cannot be retrospective and this is all the more so in such cases when a state of things is to take place by publication of a notification which means from the date of its publication in the Gazette and not from any prior date or to be more precise, not from the date of the notification itself if it is prior to the actual date of the publication in the Gazette, because then it will tantamount to giving that notification a retrospective effect not from its publication but from a date prior thereto which as explained above is not permissible according to the relevant law involved in this case."

III. Deputy Controller of Customs (Valuation) and others V. Messrs Abdul. Shakoor Ismail Kaloodi and others (2006 PTD 2142)

"...there are number of judgments of this Court holding that the publication in the official Gazette was precondition to the enforcement of the notification. Reference may be made to The Province of East

Pakistan v. Major Nawab Khawaja Hassan Askary and others PLD 1971 SC 82; Muhammad Ishaq v. Chief Administrator of Auqaf, Punjab PLD 1977 SC 639 and Muhammad Suleman and others v. Abdul Ghani PLD 1978 SC 190.

6. *The above conclusion is also confirmed by section 20-A of the General Clauses Act, 1897, which was added through Ordinance XXXIII of 2002, on 27-7-2002. Section 20-A reads:*

"Rules and Order, etc., to be published.--- All rules, order, regulations and circulars having the effect of law made or issued under any enactment shall be published in the official Gazette."

IV. Mst. Ummatullah through Attorney V. Province of Sindh through Secretary Ministry of Housing and Town Planning, Karachi And 6 others (PLD 2010 Karachi 236)

"This Court in the case of Cowasjee v. Multiline Associates (PLD 1993 Kar. 237 at 262-263 while placing reliance on Bindra's Interpretation of Statutes and General Clauses Act @ page 561 of 4th edition) held "when an Act enable an authority to make regulations, a regulation which is validly made under the Act i.e. which is intra vires of the authority, should be regarded as though it were itself an enactment". "Therefore, in our opinion the said regulations in the present case have been clothed with statutory authority by virtue of section 21-A of the Ordinance.

21. There is wisdom in enacting sections 2(41) and 19-A of Sindh General Clauses Act, 1956 that necessitates publication, in the official Gazette, of subordinate legislative instruments effecting rights, duties and obligations in any manner of any class

of persons. The publication of subordinate legislative instrument in the official Gazette would, as held in the case of Saghir Ahmed v. Province of Punjab PLD 2004 SC 261, inspire public confidence in the policy decisions and promote the system of good governance and transparency. (One may also gainfully see Chief Administrator Auqaf v. Amna Bibi 2008 SCMR 1717). Merely issuing a notification without publication in official Gazette and keeping it in the closet shrouded in the secrecy is opposed to public policy and law, otherwise, it would add another tool of oppression in the arsenal of the public functionaries, who may arbitrarily or selectively confer or impinge any privilege, benefit or right of a person at their whims and fancies for extraneous consideration.

27. As observed above, that the subordinate legislative instruments comes into the force on the date of publication, provided same was issued "under proper authority" (See sub section (41) to section 2 of General Clauses Act, 1956)."

V. Government of Sindh through Secretary Agriculture and Livestock Department and Others V. Messrs Khan Ginners (Private) Limited and 57 others (PLD 2011 Supreme Court 347)

'The case of Muhammad Suleman and others v. Abdul Ghani PLD 1978 SC 190 throws sufficient light on the legal position that issuance of a Notification is not of any significance or legal importance till it is published in an official Gazette. According to section 2(41) of the General Clauses Act, 1956 a 'Notification' means a Notification published under proper authority in an official Gazette."

16. In view of the principles enunciated in the caselaw, there is no room to argue that decisions reached by the Board of the

Authority as recorded in minutes of its meetings automatically acquire the status of regulations under Section 51. The decision of the Board dated 13.02.1995 that sought to permit commercialization of residential property in Sector G-9 and was subsequently recalled, was never published and having been made in exercise of executive powers of the Authority under Section 5 never had the status of regulations for purposes of Section 51. Therefore, in the present case, the question of retrospective or prospective application of law does not arise.

17. Let us now consider the caselaw in relation to building control and use of property in breach of the provisions of the Ordinance, the regulations of the Authority and the Masterplan which unequivocally suggests that the Authority has no discretionary power to give effect to any scheme or accord any permission for change of status or use of property in breach of the MasterPlan:

I. In Al-Safa Golden Co. (Pvt.) Ltd. Vs. Capital Development Authority (2016 CLC 210 e 215).

"The case of the petitioner is that a vested right has accrued in its favour through grant of approval by respondents and the principle of locus poenitentiae shall be applicable. The referred stance/argument is not tenable inasmuch as the approvals granted were subject to certain terms and conditions of Building Zoning Regulations. Even if the approval granted was in violation of Building Zoning Regulations it was the law that has to prevail and the petitioner cannot claim any vested right accrued to it in respect of any violation of the Building Regulations or approval granted to it."

- II. In Syed Waqar Hussain Gillani v. CDA (2013 CLC 1095) residential plots carved out at the outskirts of a playground in breach of the Masterplan were cancelled and CDA was ordered to restore the playground for the benefit of all residents of the area.
- III. In Human Right Case No. 4668 of 2007 (PLD 2010 SC 759) provisions of the Ordinance and rules and regulations made thereunder were declared to be of a mandatory and binding nature:

"No doubt, the Authority is competent to make alterations in the Masterplan, but as discussed in Fazal Din v. Lahore Improvement Trust (PLD 1969 SC 223), the alteration or modification of a sanctioned scheme is permissible in the manner prescribed by the relevant statute."

The august Supreme Court declared as illegal various structures in F-9 Park for being in breach of the Masterplan.

- IV. In Moulvi Iqbal Haider v. Capital Development Authority and others (PLD 2006 SC 394) it was held that:

"15. What we have understood from above documents is that in the Capital territory, a master plan was prepared at the time of its inception and subsequently under different schemes, different sectors were set up. In this behalf, reference to the preamble and sections 11 and 12 of the Ordinance, 1960 may be made. In the scheme of a sector, some of the areas have been earmarked as a Public Park to attract general public. According to Article 12(3) of the Regulation, the public parks, playing fields and graveyards are to be developed and maintained by the CDA. Thus the conclusion is that during the classification of the plots, under Article 3 of the

Regulation, if a piece of land has been earmarked for purpose of Public Park, same cannot be leased out and CDA itself is bound to develop the same.

16. There is yet another important provision of law, which prohibits C.D.A. to amend the scheme i.e. sections 19 and 21. Admittedly, in instant case, in terms of these sections, neither the permission was sought to convert the Public Park into the Mini Golf Park nor before doing so objections were invited from the general public in terms of I section 21 of the Ordinance, 1960. This Court way back in 1969 in the case of Mian Fazal Din v. Lahore Development Trust, Lahore (PLD 19.69 SC 223) has held that "the plots in a Housing Scheme for public use cannot be converted for other use". Relevant para. from this judgment has already been reproduced in the order dated 26th December 2005. Admittedly a Public Park, if is earmarked in a housing scheme, creates a right amongst the public and that right includes their entry in the Park without any obstacle, being fundamental right enshrined in Article 26 read with Article 9 of the Constitution. It may be noted that liberty of a person, to have access or utilize a right available to him, cannot be taken away by converting such facility into commercial one, for the purpose of extending benefit to a third person, because in instant case considerably a big plot of land, measuring five acres, has been handed over to respondent No.2 at a throwaway lease money, causing huge loss to the public exchequer, therefore, tax payers have a right to inquire from C.D.A. as to how a right of life and liberty can be denied to them."

The august Supreme Court thus reviewed the scheme of the Ordinance and underscored the obligation to

maintain the sanctity of the Masterplan and to ensure that development and use of land in the Islamabad Capital Territory is in accordance with the Masterplan.

V. In Muhammad Raza v. Jammu and Kashmir Cooperative Housing Society (PLD 2013 Islamabad 49), while declaring illegal development of a society in breach of the approved layout plan this Court held that, *"there is no cavil to the proposition that land specified for a particular purpose cannot be used for any other purpose."*

VI. In Col. (R) Javed Agha v. Arshad Mahmud (2017 MLD 627) this court held the following:

"28. The key question that calls for adjudication in the instant case is whether use of a residential property for establishment and running of a guest house is in violation of the zoning Regulations inasmuch as whether the same amounts to a commercial activity. IRSZR, 2005 as well as ILDR, 2005 categorize/classify plots into different categories. The relevant classifications for the purposes of the instant cases are into residential and commercial and business. In this behalf in Regulation 3(2) of ILDR running of guest houses has been classified as a commercial and business activity and residential plots have been defined as plots meant only for houses. The word house is defined in Regulation 2(1)(k) as a separate dwelling for human habitation for a family. Similarly, the restriction on any use of residential building which is non-conforming renders the owner and occupant to fine under Regulation 2.17.3 of IRSZR, 2005. In this behalf nonconforming use is defined in Regulation 1.2.92 as use of a plot or structure thereon not conforming to the purpose authorized or permitted under the Regulation or the condition of allotment. Similarly, residential building is defined in

Regulation 1.2.121 as a building authorized for residential occupancy by one or more families but does not include hotel or lodging house. Finally a house is defined in Regulation 1.2.72 of IRSZR as a building to be used for residential occupancy of one or more families as prescribed under the Regulations. The bare perusal of Regulation 2.17.3 and the definitions of residential building, house and non-conforming use shows that residential use of a property is meant for habitation by a family or families. Similarly Regulation 3 classifies guest houses as commercial activities and takes it beyond the scope of residential house. The Division Bench of Hon'ble Peshawar High Court in case titled Muhammad Sayyah ud Din v. Director General Peshawar Development Authority and 2 others (2015 CLC 84) while dealing with the matter under similar facts and circumstances wherein Peshawar Development Authority had initiated action against guest houses observed that use of residential property for a guest house is a commercial activity and further observed that they cannot be allowed to carry on commercial activities from the said building. The learned counsel for the petitioners during the course of arguments submitted that renting out a residential building for a specified term is permissible and is not in violation of zoning Regulations. Likewise establishing a guest house and taking guest for a short period of time should be allowed and does not amount to a commercial activity. Admittedly, the guest houses have been given commercial meters for electricity and when guests are accepted for consideration the use does not fall within the definition of residential use as provided in IRSZR, hence the use does not remain residential whereas where the property is let out for residence its use as residential building or a house

within the meaning of the concepts as provided in the definition clause of Regulations remain intact. In view of above though the establishing and running of guest houses is not prohibited under the law, however, the petitioners are to abide by the zoning regulations and land use in accordance with the Regulations of 2005 as well as the Ordinance. Any use which does not conform with the classifications made by CDA or as prescribed under the Regulations would tantamount to a non-conforming use within the meaning of the concept as provided in 2005 Regulations and would render the owner and occupant liable for action under the law. In view of above findings there is no justification or basis for striking down any provision of the Ordinance, the Islamabad Land Disposal Regulation, 2005 or the Islamabad Residential Sector (Building Control) Zoning Regulations, 2005.”

VII. In Shahzada Sikandar ul Mulk v. Capital Development Authority (PLD 2019 Islamabad 365), relying on judgments of the august Supreme Court it was declared that, *“no construction can be justified for allowed to exist if it is in violation of the scheme of the Ordinance of 1960 and the subordinate legislation made thereunder by way of rules or regulations”* In relation to a policy framed by CDA to regulate construction in E-11, it held that:

“[W]e are afraid that the framing of the Policy of 2007 by the Authority to regulate construction in Sector E-11 is ultra vires the Master Plan and the mandatory provisions of the Ordinance of 1960 read with the Zoning Regulations of 1992. The Authority, as trustee of the Master Plan, is not vested with power or jurisdiction to arbitrarily alter or amend the Master Plan which is indeed an instrument of

national importance. Likewise, the Chief Commissioner, Islamabad Capital Territory or the Union Councils were also not vested with the power or jurisdiction to override the provisions of the Ordinance of 1960 and the regulations made there under by purportedly regulating construction in violation thereof. We, therefore, declare that construction made or intended to be made in sector E-11 i.e. the "Golra Revenue Estate" in violation of the Master Plan, the Ordinance of 1960 and the Regulations made there under is illegal and liable to be removed as mandated under section 49-C of the Ordinance of 1960 and the relevant regulations."

While dilating upon construction in breach of Zoning Regulations, it held that:

"The Authority is also not vested with power or jurisdiction to allow, directly or indirectly, any construction in Zone-4 in violation of the aforesaid Regulation."

It was declared that:

"construction of houses or buildings of any nature ... which have been or are intended to be constructed in violation of the Master Plan, the Ordinance of 1960, the Zoning Regulations of 1992, the Ordinance of 1966 and the Wildlife Ordinance of 1979, as the case may be, are illegal, without lawful authority and jurisdiction and thus liable to be demolished as mandated under the Ordinance of 1960 and the regulations made there under."

VIII. In W.P. No. 2906 of 2018 titled as Ms Shahnaz Butt vs. Islamabad Bar Association through its President, etc. a larger bench of this Court held as follows:

"19. A plain reading of the Ordinance of 1960 explicitly shows that it is a self contained, comprehensive and special statute enacted for establishing the Authority and having the object and purpose of making all arrangements for the planning and development of Islamabad within the framework of the regional development plan. In terms of its regulatory autonomy, it was intended that the Authority would enjoy the same status as that of other regulatory authorities referred to by the august Supreme Court in the judgment titled "Muhammad Yasin Vs. Federation of Pakistan through Secretary, Establishment Division" [PLD 2012 SC 132].

20. The Islamabad Capital Territory (Zoning) Regulation, 1992 (hereinafter referred to as the "Zoning Regulations of 1992") were framed in order to give effect to the master plan approved in 1960 and having the statutory backing under section 11 of the Ordinance of 1960.

21. The Islamabad Building Regulations, 1963 (hereinafter referred to as the "Building Regulations of 1963") extends to the Capital Site. The Capital Site is defined in section 2(e) of the Ordinance of 1960. The Authority, in exercise of its powers vested under section 51 of the Ordinance of 1960, has also framed and duly notified the Islamabad Residential Sectors Zoning (Building Control) Regulations, 2005 (hereinafter referred to as the "Building Control Regulations").

23. It is noted that unregulated illegal construction has profound consequences in the context of irreversible damage to the environment, therefore, enforcing the existing enforced laws and regulatory framework in the Islamabad Capital Territory has become inevitable because the right to life guaranteed under Article 9 is being flagrantly violated, not only that of the petitioner but of every

resident of the Islamabad Capital Territory and citizen of Pakistan.

25. It is noted that not an inch of the State acquired land can be put to use in violation of the Ordinance of 1960 and the rules or regulations made there under."

18. The learned counsel for the Petitioners relied on the doctrine of locus poenitentiae that unfortunately also does not further the Petitioners' case. The seminal judgment of the august Supreme Court on the doctrine of locus poenitentiae is Pakistan, through the Secretary, Ministry of Finance vs. Muhammad Himayatullah Farukhi (PLD 1969 Supreme Court 407) wherein it was held that:

"There can hardly be any dispute with the rule as laid down, in these cases that apart from the provisions of section 21 of the General Clauses Act, locus poenitentiae, i.e., the power of receding till a decisive step is taken, is available to the Government or the relevant authorities. In fact, the existence of such a power is necessary in the case of all authorities empowered to pass orders to retrace the wrong steps taken by them. The authority that has the power to make an order has also the power to undo it. But this is subject to the exception that where the order has taken legal effect, and in pursuance thereof certain rights have been created in favour of any individual, such an order cannot be withdrawn or rescinded to the detriment of those rights."

19. In Nazir Ahmed Panhwar v. Government of Sindh (2005 SCMR 1814) it was held that the principle of locus poenitentiae "can be invoked only in respect of an order which is legal and not in respect of an order which is contrary to and in contravention of any provision of law or the rules made

thereunder or a settled provision of law.” Relying on Engineer-in-Chief Branch v. Jalaluddin (PLD 1992 SC 207) and Abdul Haque Indhar v. Province of Sindh (2000 SCMR 907), the august Supreme Court held that, “in both the above referred cases this court had categorically stated that principle of locus poenitentiae would be applicable in respect of an order passed by an authority who was competent to pass an order in accordance with law and that the order so passed was not in violation or contravention of any law and/or rules made thereunder.” And that “the concept of locus poenitentiae is the power of recede till a decisive step is taken but it is not a principle of law that order once passed becomes irrevocable and a past and closed transaction.” It was also laid down that “if the order was illegal then perpetual rights could not be gained on the basis of such an illegal order.”

20. Most recently starting with Muhammad Himayatullah Farukhi and tracking the jurisprudential evolution of the concept of locus poenitentiae in Jalaluddin (PLD 1992 SC 207) onward, the august Supreme Court summarized the judicial consensus on the matter in Government of the Punjab v. Muhammad Imran (2019 SCMR 643) and held as follows:

“10. Keeping in view the above deliberation, it is noted that there is a judicial consensus on the issues in hand in terms that:

IV) The Authority which can pass order is entitled to vary, amend, add to or to rescind the same under section 21 of the General Clauses Act, 1897.

II) The jurisdiction to recall an earlier order is based on the principle of locus poenitentiae.

III) There is an exception to the principle of locus poenitentiae vesting power in an authority to recall its earlier order: if in pursuance of the order passed by the authority, an aggrieved person takes decisive steps, and changes his position.

IV) None can retain the benefits of a withdrawn order, claiming the protection of having taken a decisive step, when the very order passed by the authority is illegal, void or without lawful authority. In such circumstances, it would not matter, even if decisive steps have been taken by the person in pursuance of the illegal order passed by the authority. However, the pecuniary benefit accrued and already received by a person in pursuance of an illegal order passed by the competent authority cannot be recovered from him unless the benefiting order was obtained by the person through fraud, misrepresentation or concealment of material facts."

21. In the present case the decision of the Board dated 13.02.1995, on the basis of which the Petitioners claim a vested right to have their properties declared as commercial, was not a legal order. Realizing the same, the Board itself rescinded such decision through its subsequent decision dated 07.10.1995. While no vested rights could be created under the decision dated 13.02.1995 for it being in breach of provisions of the Ordinance and in conflict with the Masterplan (which could only be amended with the approval of the Federal Government and not by the Authority itself), no change of status of any property was approved by the Authority during such period that decision dated

13.02.1995 remained in the field. Thus, the Petitioners can also not claim to have taken any decisive steps in pursuance of a decision of the Authority while it subsisted in any event. In view of these facts and settled law, the doctrine of locus poenitentiae is not attracted.

22. Let us also consider whether the Petitioners can claim any legitimate expectation to have their residential properties converted into commercial ones on the basis of the decision of the Board dated 13.02.1995, later rescinded. Justice Fazl Karim in '*Judicial Review of Public Actions*' (Volume 2 Page 1365) dwells upon the concept of legitimate expectation in the following terms:

"The justification for treating 'legitimate expectation' and 'promissory estoppel' together as grounds for judicial review is: (1) that they both fall under the general head of 'fairness'; and (2) that 'legitimate expectation' is akin to an estoppel. As was explained by Simon Brown LJ in R v. Devon CC, the various authorities show "that the claimant's right will only be found established when there is a clear and unambiguous representation upon which it was reasonable for him to rely. Then the administrator or the other body will be held bound in fairness by the representation made unless only its promise or undertaking as to how its power would be exercised is inconsistent with the statutory duties imposed upon it". The relationship between them is more clearly brought out by what Bingham LJ stated in R v. IRC ex p IMK.

"If a public authority so conducts itself as to create a legitimate expectation that a certain course will be followed it would often be unfair if the authority were permitted to follow a different course to the detriment of one who entertained the expectation, particularly if he

acted on it. If in private law a body would be in breach of contract in so acting or estopped from so acting a public authority should generally be in no better position. The doctrine of legitimate expectation is rooted in fairness."

23. The concept of legitimate expectancy is well established across common law jurisdictions. Let us consider a couple of cases:

I. Council of Civil Services Union Vs/ Minister for the Civil Services ([1985] A.C. 374)

To qualify as a subject for judicial review the decision must have consequences which affect some person (or body of persons) other than the decision-maker, although it may affect him too. It must affect such other person either:

(a) by altering rights or obligations of that person which are enforceable by or against him in private law; or

(b) by depriving him of some benefit or advantage which either (i) he had in the past been permitted by the decision-maker to enjoy and which he can legitimately expect to be permitted to continue to do until there has been communicated to him some rational grounds for withdrawing it on which he has been given an opportunity to comment; or (ii) he has received assurance from the decision-maker will not be withdrawn without giving him first an opportunity of advancing reasons for contending that they should not be withdrawn

II. Food Corporation of India Vs. Kamdhenu Cattle Feed Industries ((1993) 1 SCC 71)

There is no unfettered discretion in public law: A public authority possesses powers only to use them for public good. This impose the duty to act fairly and to adopt a procedure which is 'fair play in action'. Due observance of this obligation as a part of good administration raises a reasonable or legitimate expectation in every citizen to be treated fairly in his interaction with the State and its instrumentalities, with this element forming a necessary component of the decision-making process in all State actions. To satisfy this requirement of non-arbitrariness in a

State action, it is, therefore, necessary to consider and give due weight to the reasonable or legitimate expectations of the persons likely to be affected by the decision or else that unfairness in the exercise of the power may amount to an abuse or excess of power apart from affecting the bona fides of the decision in a given case. The decision so made would be exposed to challenge on the ground of arbitrariness. Rule of law does not completely eliminate discretion in the exercise of power, as it is unrealistic, but provides for control of its exercise by judicial review.

8. The mere reasonable or legitimate expectation of a citizen, in such a situation, may not by itself be a distinct enforceable right, but failure to consider and give due weight to it may render the decision arbitrary, and this is how the requirement of due consideration of a legitimate expectation forms part of the principle of non-arbitrariness, a necessary concomitant of the rule of law. Every legitimate expectation is a relevant factor requiring due consideration in a fair decision-making process. Whether the expectation of the claimant is reasonable or legitimate in the context is a question of fact in each case. Whenever the question arises, it is to be determined not according to the claimant's perception but in larger public interest wherein other more important considerations may outweigh what would otherwise have been the legitimate expectation of the claimant. A bona fide decision of the public authority reached in this manner would satisfy the requirement of non-arbitrariness and withstand judicial scrutiny. The doctrine of legitimate expectation gets assimilated in the rule of law and operates in our legal system in this manner and to this extent.

24. Jurisprudence on the doctrine of legitimate expectancy has evolved over the years. Even in a case where the conduct of a public authority gives rise to the legitimate expectation of an individual to be treated in a certain way, the onus merely shifts to the public authority to establish that notwithstanding such expectation its decision to act contrary to such representation is

driven by public interest. As the doctrine is grounded in the concept of fairness, legitimate expectation is a consideration for the decision maker and not an absolute bar against acting in a certain manner in such cases where such action promotes larger public interest. It is settled law that in the case of any conflict between the rights of an individual and the rights of a community, the court has to undertake a balancing exercise such that the interests of the individual are not allowed to trump the interests of the community.

25. In the present case there is no basis for the Petitioners to argue that they have nurtured a legitimate expectation that their residential properties will be converted into commercial ones merely because the Board of the Authority decided so in one meeting on 13.02.1995 that it rescinded on 07.10.1995. The decision was not in consonance with provisions of the Ordinance and was recalled as soon as the Authority realized so, which happened prior to the decision having been acted upon. Further, the expectation that the power to regulate building control and the property use in Islamabad will be exercised in consonance with provisions of the Ordinance, the Masterplan approved under the Ordinance, and the regulations frame under the Ordinance, is a collective right of all residents of Islamabad and cannot be overridden by an expectation of individual citizens to be treated preferentially or differently on the basis of a misconceived decision of the Authority reached in disregard of provisions of the Ordinance.

26. The petitions and civil revisions being **dismissed** by this judgment also do not qualify for the exercise of discretionary jurisdiction of this court in view of the well-entrenched principle embodied in the legal maxim “nullus commodum capere potest de injuria sua propria” (no man shall take advantage of his own wrong). The petitioners acknowledge that their properties have been employed in commercial use in breach of CDA’s regulations. Long-standing unauthorized use of property for an illegal purpose does not engender a right to continue such use merely due to afflux of time. It was held by the august Supreme Court in Muhammad Saeed vs. The Province of West Pakistan (PLD 1964 Supreme Court 572) that no one can be allowed to benefit from his own wrong.

27. The conclusions that can be drawn from the aforesaid reasoning are as follows:

- I. Compliance with the Ordinance, the Masterplan approved under the Ordinance and the rules and regulations framed under the Ordinance is mandatory;
- II. The Authority is not vested with the power or mandate to frame regulations in breach of provisions of the Ordinance or in conflict with the Masterplan approved by the Federal Government under Section 11 of the Ordinance or prepare any schemes that are not in conformity with the approved Masterplan or exercise discretionary authority to take decisions such that they are in contradiction with the Masterplan or the regulations promulgated under the Ordinance, whether in relation to development of schemes, authorization of construction or land and property use;
- III. Any decision of the Authority in breach of provisions of the Ordinance, the rules and regulations framed thereunder or in conflict with the Masterplan is devoid of legal authority and can neither be protected under the doctrine of locus poenitentiae

nor can give rise a legitimate expectation on part of a resident to continue to be treated in accordance with such unlawful decision;

- IV. The right to have zoning, building control and property use powers vested in the Authority exercised in accordance with the Ordinance, rules and regulations framed thereunder and the Masterplan is a collective right of all residents of Islamabad and cannot be overridden by any contrary interest set up by an individual or a group of individuals;
- V. To ensure that properties are subjected only to such use as is authorized by the regulations promulgated under the Ordinance is a mandatory obligation of the Authority.

28. These are the reasons for the following short order passed by this Court on 16.02.2021:

"I have heard the learned counsels for the parties. For reasons to be recorded later, the instant petition as well as Writ Petitions No.3574, 3576, 3578, 4127, 4128, 4129 and 4133 of 2015, W.P. No.1018 of 2019, C.R. No.315 and 423 of 2016 are being dismissed by the decision of this Court which is as follows:

- i. The decision of the CDA Board dated 13.02.1995 is not a regulation for purposes of Section 51 of the Capital Development Authority Ordinance, 1960 (**"Ordinance"**);*
- ii. To the extent that the CDA Board decision dated 13.02.1995 allowed conversion of residential property in Street No.55, Sector G-9/4 into commercial property, such decision was ultra vires the Ordinance and in excess of the authority rested in the CDA Board and thus illegal and void ab initio;*
- iii. The decision of the CDA Board dated 07.10.1995 that rescinded its earlier decision dated 13.02.1995*

was the correct decision in accordance with the scheme and provisions of the Ordinance and the decision of the CDA Board dated 02.12.2019 refusing commercialization of the property of the petitioners does not suffer from any legal infirmity;

- iv.** *As the petitioners had garnered no benefits under the decision dated 13.02.1995 during the period when it remained in the field, they can claim no injury due to the decision dated 07.10.1995 and the doctrine of locus poenitentiae is of no help to them;*
- v.** *The decision of 13.02.1995 created no vested rights for the petitions being an illegal order, which was neither acted upon by the petitioners or CDA, and in any event any superstructure of expectations built upon an illegal order would come crumbling down along with its illegal foundation;*
- vi.** *The judgment of this Court reported as PLD 2019 Islamabad 365, which has enumerated the scheme and provisions of the Ordinance and has held that no scheme for purpose of Section 11 and 12 of the Ordinance can be devised or change of land use given effect in breach of the master plan, is not distinguishable in the present petitions, and any claim to seek conversion of the status of residential property to commercial property that is not backed by the approved master plan must fail;*
- vii.** *As it has been held by the august Supreme Court and this Court multiple times that it is the obligation of CDA to ensure that properties that fall within its regulatory domain in the Islamabad Capital Territory are not employed in non-conforming use, it is the duty of CDA to discharge its statutory obligation and ensure that no residential property in Street 55, Section G-9/4 is used for commercial purpose and CDA is directed to stop any continuing non-*

confirming use of property in Street 55 of Section G-9/4 in accordance with law after complying with the required procedural formalities.”

(BABAR SATTAR)
JUDGE

Approved for reporting.

Saeed.
Dated: 07.04.2021

ANNEXURE-A

SR. No.	Case No.	Case Title
1.	W.P No. 3574/2015	Waheed Riaz vs. CDA, etc.
2.	W.P No. 3576/2015	Gul Nazeer vs. CDA, etc.
3.	W.P No. 3578/2015	Bashir Ahmed Vs. CDA, etc
4.	W.P No. 4127/2015	Raja Sadaqat Ali vs. CDA, etc.
5.	W.P No. 4128/2015	Mst. Altaf Jabeen vs.
6.	W.P No. 4129/2015	Lt. Col(R) Pervaiz Ahmed vs. CDA, etc.
7.	W.P No. 4133/2015.	Mst. Nasim Akhtar vs. CDA, etc.
8.	W.P No. 1018/2019	Haq Nawaz vs. CDA, etc.
9.	C.R No. 315/2016	Ghayyur Ahmed through legal heirs, etc. vs. CDA, etc.
10.	C.R No. 423/2016	Walayat Bibi vs. CDA, etc.