

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

Writ Petition No.19 of 2021

Atif Abbas and another
Versus
CDA through its Chairman 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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**10. 27.01.2022. Mr. Tariq M. Khan Marwat, Advocate for petitioners.
Syed Mohammad Shah, Advocate for CDA
along with Arslan Abbas, Town Planner.**

The petitioners are residents of Street No.63, Sector I-10/1, Islamabad. Learned counsel for the petitioner submitted that CDA was creating fresh plots in breach of the Master Plan for Islamabad, which is also destroying the drainage system of the said area. He relied on the judgment of this Court in W.P. No.4318/2012 and I.C.A No.206/2015, in which this Court held that new plots cannot be created without sanction under the Master Plan for Islamabad.

2. Learned counsel for the petitioner stated that the open area versus constructed area breached the proportion as prescribed under the Modalities and Procedures framed under I.C.T. Zoning Regulations, 1992. He further stated that CDAs’ breach of the Master Plan is evident from the copy of the Master Plan appended with C.M. No.5239/2021.

3. Learned counsel for CDA on the contrary stated that there has been no breach of the

Master Plan. He stated that he had placed on record the actual approved Master Plan for Islamabad, which reflects that the plots in question were already part of the Master Plan. He stated that the plan that had been filed by the petitioner was not the approved Master Plan and was a copy of some plan prepared by a real estate agent.

4. Notwithstanding whether or not the plan filed by the petitioner is correct or not this Court cannot engage in the factual controversies that form the subject matter of the petition. CDA is a Public Authority and has filed a response along with the approved Master Plan for Islamabad and a presumption of correctness is attached such Master Plan filed by CDA. In view of the Master Plan it appears that there has been no breach of the approved scheme in carving out the plots in question. However, this Court does not wish to pass any definitive judgment on the said issue as whether or not there has been a breach of the Master Plan in demarcating the plots in question is a question of fact that can only be conclusively settled after recording evidence. The petitioner has however failed to convince this Court in view of the record placed before the Court that the approved Master Plan for Islamabad has been breached by CDA. The

petitioner is free to agitate the matter before the court of original jurisdiction in the event that it believes that the Master Plan has been breached. In its constitutional jurisdiction, this Court cannot engage in the factual controversy of whether the Master Plan produced by the petitioner is the actual approved plan, as opposed to that produced by CDA, and whether the plots being allotted have been carved-out and demarcated in compliance with the Master Plan. As the petitioner has failed to make out a *prima-facie* case of such breach, this petition is ***dismissed*** for not being maintainable.

(BABAR SATTAR)
JUDGE

M.A. Raza