

ORDER SHEET
ISLAMABAD HIGH COURT
ISLAMABAD

W.P.No.2980/2019

Rashid Ali Kayani

VERSUS

Dr.Nisar Kayani, etc

S.No. of order/ Proceeding	Date of hearing	Order with signature of Judge, and that of parties or counsel, where necessary.
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12.9.2019. Hafiz Muhammad Usman Warraich & Mr.Rais Mumtaz Hussain, Advocates for Petitioner.

Through this writ petition the Petitioner has prayed for the following relief:-

- a) *Issue direction to respondents to furnish suitable surety for the redressal of petitioner and to furnish documents of commitment to secure the interest of the petitioner as envisaged under Article 199.*
- b) *Grant mandatory injunction directing respondent No.4 not to transfer/issue documentation or process in relation to the property of respondent No.1.*
- c) *Grant cost of this petition.*
- d) *Grant any other relief, additional and/or alternate as this Honorable Court may deem fit or proper and/or necessary in the circumstances of the case.*

2. Learned counsel for the Petitioner, interalia, contends that Petitioner has filed suit for recovery in terms of Order XXXVII of Civil Procedure Code for recovery of amount of Rs.18700000/- against respondents No. 1,2 and 3 which is pending in the Court of District Judge-West, Islamabad. It is further contended that respondent No.1 in collusion with his real sons i.e respondents No.2 & 3 received huge sum of money from the public at large through misrepresentation and fraud, as such respondents in order to avoid liability are planning to sale out their residential house situated in Islamabad and have

approached respondent No.4 i.e Capital Development Authority for issuance of NOC of the said property. It is further argued that respondent No.1 might fled away after disposal of his property and as such respondent No.4 may be restrained from issuing required documents to respondent No.1.

3. Learned Counsel for the petitioner has been confronted as to whether petitioner has approached the competent Civil Court for redressal of his grievance by way of attachment of property in question in terms of Section 94 CPC read with Order XXXVII Rule 5 CPC whereby he conceded that no such action has been taken before the learned District Judge in pending suit of Order XXXVII of Civil Procedure Code which is pending against respondents No.1, 2 and 3.

4. Keeping in view the above background, the relief claimed by the petitioner is against the private respondents and as such the rights of the petitioner have not yet been determined, however, petitioner may approach the competent Court for redressal of his grievances in his suit for recovery which is pending against respondents No.1, 2 & 3. The instant petition is not competent as no direction can be issued against private respondents in this regard, even alternate efficacious remedy is available, therefore, instant petition is hereby dismissed **in limine**.

(MOHSIN AKHTAR KAYANI)
JUDGE