

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

C.R.No.187/2016
Naval Anchorage Scheme
Versus
Jamil Ahmed

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	23.10.2019	Mr. Sohail Akbar Chaudhry, Advocate for the petitioner, Barrister Nobahar Ali, for the respondent.

Through the instant civil revision petition, the petitioner, Naval Anchorage Scheme, impugns the order dated 04.02.2016 passed by the Court of the learned Additional District Judge (East), Islamabad, whereby the petitioner's appeal against the order dated 09.12.2015 passed by the Court of the learned Civil Judge, Islamabad, was dismissed. Vide the said order dated 09.12.2015, the learned Civil Court allowed the respondent's application for interim injunction filed under Order XXXIX, Rules 1 and 2 of the Code of Civil Procedure, 1908 ("C.P.C.") along with his suit for declaration and permanent injunction.

2. Learned counsel for the petitioner submitted that respondent No.1 intends to raise construction on the area which has been duly acquired for the petitioner; and that if the respondent was permitted to raise construction on the land that was acquired for the petitioner, and if the suit was ultimately dismissed, it would be difficult for the construction raised by the respondent to be demolished. Learned counsel for the petitioner prayed for the revision petition to be allowed in terms of the relief sought therein.

3. On the other hand, learned counsel for the respondent submitted that the concurrent orders/judgments passed by the learned Courts below do not suffer from any jurisdictional infirmity

so as to warrant interference in the revisional jurisdiction of this Court; that the respondent has no intention to raise construction on the land which has been acquired for the petitioner; and that the petitioner had already surrendered the surplus area. Learned counsel for the respondent prayed for the revision petition to be dismissed.

4. I have heard the contentions of the learned counsel for the contesting parties and have perused the record with their able assistance.

5. It appears that land for the construction of a 200 feet wide road for the petitioner was acquired under the provisions of the Land Acquisition Act, 1894. The land of the Federal Employees Cooperative Housing Society ("F.E.C.H.S.") is adjacent to the said road. An agreement between the petitioner and F.E.C.H.S. has been executed regarding the use of the access road. The instant case is not one of a dispute between the petitioner and F.E.C.H.S. The respondent had purchased a plot No.COM-39, measuring 30x40 feet, Street No.JCC-2, Jinnah Garden, Islamabad. The respondent cannot be restrained from raising construction on the plot duly allotted to him. However, since the respondent's stance was that he does not intend to raise construction on the land for the petitioner, this should be sufficient to redress for the petitioner's grievance.

6. In view of the above, the instant revision petition is dismissed with no order as to costs.

(MIANGUL HASSAN AURANGZEB)
JUDGE

Gamar Khan