

ORDER SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Writ Petition No. 1462/2021

Arslan Tahir and another

Versus

Capital Development Authority through its Chairman, etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
(07)	11.08.2021	Ms. Saeeda Mirbaz, Advocate for petitioner. Mr. Muhammad Nazir Jawad, Advocate for respondents No. 1 & 2/CDA. Mr. Abdul Wahid Qureshi, Advocate for Applicant/ respondent No. 3.

C.M. No. 3306/2021.

Through this CM, applicant has prayed for modification of order dated 07.07.2021, whereby injunctive order has been passed against the applicant society from receiving any charges from the residents of the society including the petitioners in the name of approval of site plan/construction plan or transfer fee till the next date of hearing.

2. Learned counsel for the applicant society contends that due to this restraining order applicant society is facing hardships and is unable to pay legitimate employment emoluments of employees and also failed to manage day to day affairs and not able to pay utility bills as all these expenses born out from transfer fee received on the transfer of different plots.

3. Conversely, learned counsel for the respondent contends that if restraining order is modified the rights of different individuals including the petitioners may be affected.

4. Arguments heard, record perused.

5. Perusal of record reveals that this court has passed the restraining order whereby injunction was issued against the applicant society, who is not allowed to receive any fee in the name of approval of site plan/construction plan or transfer fee till the next date of hearing, whereby it has been contended that restriction

created the difficulty in paying salaries and dues of the society. In such scenario, order dated 07.07.2021 is required to be modified while considering the arguments of both the parties. This court is of the view that it is the fundamental right of the workers/employees to get their monthly emoluments/salaries in accordance with terms of their employment agreement and they could not be deprived from their right to life in terms of Article 9 of the Constitution of Islamic Republic of Pakistan, 1973, therefore, instant C.M. is **allowed**, and order dated 07.07.2021 is modified with direction to the applicant society to submit details of monthly expenses including salaries of the employees, utility bills and other day to day affairs from the receivable amount of transfer fee or other charges, rest of amount received in the society account shall not be utilized in any manner.

(MOHSIN AKHTAR KAYANI)
JUDGE

Khuram