

Stereo. H C J D A-38.
JUDGMENT SHEET
IN THE LAHORE HIGH COURT, LAHORE
JUDICIAL DEPARTMENT

Civil Revision No.46498 of 2017

**Province of the Punjab through Secretary Education, Civil
Secretariat, Lahore & another**

Versus

Darul Haq Trust & others

J U D G M E N T

Date of hearing: 13.11.2025.

Petitioners by: Mr. Muhammad Saad Bin Ghazi,
Assistant Advocate General.

Respondent No.1 by: Rana Waqas Habib-ur-Rehman,
Advocate.

MUHAMMAD SAJID MEHMOOD SETHI, J.- Through instant revision petition, petitioners have challenged the judgments & decrees dated 02.07.2013 and 20.03.2017, passed by learned Civil Judge and Additional District Judge, Lahore, respectively, whereby petitioners' suit for declaration along with permanent injunction was concurrently dismissed.

2. Briefly stated, the petitioners instituted a suit for declaration along with permanent injunction claiming therein that land measuring 6.3 acres, Sector B-1, Block 7, Township, Lahore is government property under their possession, in respect of which a possession slip dated 10.01.1973 was issued; that the petitioners operate a Government High School on a portion of the said land; that respondent No.1, acting as *Imam Masjid*, commenced construction of commercial shops on the land on the basis of allegedly false and forged documents. Respondent No.1 contested the suit by filing written statement. Learned Trial Court, after framing issues, recording evidence and hearing arguments

of both sides, proceeded to dismiss the suit vide judgment & decree dated 02.07.2013. Appeal against the said judgment and decree was dismissed by the learned Additional District Judge, vide judgment & decree dated 20.03.2017. Hence, instant petition.

3. Learned Assistant Advocate General contends that the allotment letter (Exh.D-1) clearly restricts the use of the land solely for constructing a mosque and prohibits any change in purpose. He argues that the construction of shops by respondent No. 1 contravenes the terms of allotment and is illegal. He submits that the documents produced by the respondent are void ab initio and irrelevant, and the learned Courts below have failed to properly appreciate the evidence on record.

4. Learned counsel for respondent No.1 submits that the mutation relied upon is valid and attested, that possession has been continuous, and that shops were constructed solely to generate funds for the maintenance of the mosque, not for personal gain.

5. The Court has considered the arguments advanced by learned counsel for the parties, examined the record and documentary evidence, and reviewed the judgments assailed through this revision petition. The material and undisputed fact is that possession of the subject land was given pursuant to an allotment letter which expressly limits the use of the land to mosque purposes. The tenor of the allotment letter reads as under:-

“The allotment is further subject to the followings terms and condition:-

i) The mosque will be open to the persons of all sects for the performance of Namaz prayers.

ii) Its use as worship place will not be converted at any stage other than the purpose for which it has been allotted.

iii) No addition or alteration in the construction shall be carried out without prior approval of the H&PP department.”

(emphasis supplied)

The allotment letter is not a mere administrative convenience; it is a binding document that confers a limited right and creates a public trust in respect of land dedicated for a public and religious purpose. The terms of that instrument must be given full effect. Respondent No.1 asserts that the construction of shops is for maintenance of the mosque. Even if maintenance of a mosque is a legitimate objective, it does not, and cannot in law, justify a permanent conversion of publicly-dedicated land into commercial premises where the allotment explicitly prohibits such conversion.

6. The burden squarely rested upon respondent No.1 to produce cogent and reliable evidence demonstrating either that the impugned use of the land fell within the permissible scope of the original allotment, or that any lawful authorization had subsequently been obtained to vary its terms. However, respondent No.1, while appearing as DW-1, unequivocally admitted during cross-examination that the land had not been allotted for the construction of shops. The remaining defence witnesses were similarly unhelpful: some candidly acknowledged that a row of shops existed on the site and that their rent was being collected by the trust; others conceded that the shops were later demolished and rooms were constructed in their place. Some witnesses professed ignorance regarding the receipt of rent by the trust, as well as the inquiry conducted pursuant to the orders of the Hon'ble Supreme Court of Pakistan, wherein illegal occupation over the land was confirmed and a recommendation was made for the return of rent along with profit. These material inconsistencies and admissions significantly undermine and shake the foundational stance of respondent No.1. The mere assertion that commercial activity was intended to generate funds for the mosque cannot, by any legal standard, cure or retrospectively validate a construction or transaction that is patently ultra vires the allotment terms. The respondent's defence, therefore, fails to meet the evidentiary threshold required to justify the deviation from the original, restrictive purpose of the allotment.

7. The conversion of land devoted to a public or religious purpose into commercial use amounts to an infringement of the petitioners' proprietary and possessory rights and a breach of the public interest in preserving land dedicated for communal use. Such conversion is contrary to the express terms of the allotment and is therefore unlawful. The superior Courts have consistently held that lands allotted for a specified public purpose must not be diverted to other uses absent clear lawful authority, and that any action which effects such diversion must be closely scrutinized and, if unlawful, set aside. Reference can be made to Chaudhry Muhammad Younus and another v. Maqsood Alam and another (PLJ 2021 Karachi 53).

8. Needless to say, where land dedicated for a religious or public purpose carries with it the character of a "purpose trust" in the constitutional and equitable sense, wherein the beneficiary is not an individual but the community at large. Such dedication imposes inherent limitations on user, flowing from the doctrine that property impressed with a public purpose cannot be treated as private dominion nor subjected to commodification inconsistent with the original dedication. Any deviation, unless expressly permitted by competent authority and supported by cogent legal sanction, is ultra vires the trust purpose and void. Hence, the inquiry in such cases is not merely proprietary but structurally fiduciary, requiring heightened scrutiny to prevent erosion of community interests and to preserve the normative continuity of the public trust.

9. A mosque, once established or dedicated and its appurtenant land acquires a perpetual and inalienable character. The Courts, therefore, must apply a stricter standard of review when allegations are made of commercial exploitation or deviation from its sacred purpose. The Constitution itself, through Articles 23 and 24, protects lawful ownership while simultaneously recognizing the State's duty to safeguard public and religious institutions from encroachment and misuse. Consequently, any attempt to convert mosque-dedicated land into commercial premises, particularly without statutory sanction,

constitutes not only a breach of allotment but an impairment of the religious trust and a violation of the fiduciary obligations attached to such property. Such acts cannot be regularized through equitable pleas, financial necessity, or administrative convenience.

10. From a public-policy perspective, allowing commercial structures to stand on land expressly reserved for a mosque would set a dangerous precedent, effectively inviting encroachment upon public-purpose lands across the province. The law does not countenance a situation where administrative silence, lapse of time, or private initiative is used to justify a use that is fundamentally ultra vires the original grant. Any such tolerance would undermine the integrity of governmental allotments and compromise the orderly management of public assets. The Courts are, therefore, mandated to intervene where public-purpose property is subjected to unauthorized transformation, for failure to do so would erode the rule of law and encourage private individuals to unilaterally redefine the contours of public property.

11. The Courts below erred in law and misdirected themselves in fact by failing to: (a) give effect to the clear wording of the allotment letter; (b) require respondent No.1 to discharge the burden of proof for any alleged lawful deviation from the allotment; (c) appreciate that the alleged equitable justification (mosque maintenance) cannot cure an unlawful alteration of user rights; and (d) evaluate the public interest and the irreparable nature of the injury caused by the continued commercial use. Those errors resulted in an unsustainable conclusion that permitted the perpetuation of an encroachment and conversion of land dedicated for public use. For these reasons, the learned Courts below misapplied both the relevant legal principles and the facts of this case. The impugned judgments and decrees cannot be sustained in the eye of law.

12. Resultantly, the instant revision petition is allowed and the impugned judgments and decrees dated 02.07.2013 and 20.03.2017, passed by the learned Civil Judge and Additional District Judge,

Lahore, respectively, are set aside. Respondent No.1 is permanently restrained from further encroachment, construction, or use of the land for purposes other than a mosque, as specified in the allotment letter. The petitioners are entitled to take all lawful measures to ensure that the land is used solely for its allotted purpose. No order as to costs.

(Muhammad Sajid Mehmood Sethi)
Judge

APPROVED FOR REPORTING

Judge

Sultan