



DECISION

Complaint No. : POS/103/2022/04/KHS

Name and address of the complainant : Mst. Sumaira Wd/o Dr. Muhammad Izhar-ul-Hasan, R/o 43, Khayaban-e-Saadi, Phase-VII, D.H.A. Karachi.

Name of the Agency Complained against : KDA / KW&SC

Name & Designation of Investigating Officer : Syed Maqsood Haider, Director, Regional Office, Karachi (South)

Vetted by : Mr. Shahid Ahmed Hashmi, Consultant-Legal

Subject : **REQUEST FOR DIRECTIVES TO KDA TO EITHER ALLOW CONSTRUCTION ON PLOT NO.B-381, BLOCK-6, GULSHAN-E-IQBAL OR ALLOT AN ALTERNATE PLOT IN LIEU THEREOF, AS THE KW&SC OBSTRUCTS THE CONSTRUCTION BASED ON EXISTENCE OF CONDUIT BENEATH THE PLOT.**

THE COMPLAINT:

Mst. Sumaira Izhar-ul-Hasan filed a complaint on 06-01-2022, contending that in 2005 she had purchased a residential Plot No. B-381, Block-06, Gulshan-e-Iqbali, Karachi, admeasuring 372.77 Square yards, and got it transferred / mutated in her name on 29-09-2005 by the KDA. However, she was not being allowed to construct house by the Karachi Water & Sewerage Board, now Corporation (KW&SC) on the premises that a water conduit was passing beneath the plot. Although she approached the Karachi Development Authority (KDA), requesting either to facilitate her in construction on the plot as per the approved building plan or allot her an alternate plot in lieu thereof, if construction was not allowed, but of no avail. She solicited intervention of this Institution, in the matter.

PROCEEDINGS:

2. Complaint was admitted, report was called from both the Agencies i.e KDA and KW&SC. In response, the Senior Director Land & Estate, KW&SC vide report dated 26.10.2022, informed that as per their record, around 50-60 years ago such piece of land in Deh Okewari was allocated to KW&SC for Greater Karachi Bulk Water Supply Scheme and consequently NIPA Hydrant was established. The report further states that still a strip of land over the conduit has been in their possession. The report questioned about existence of the plot in question in KDA Master Plan of Gulshan-e-Iqbali Block-6. The report suggests that the complainant may be directed to approach KDA for re-allocation of alternate plot.

3. The Executive Engineer KDA, Gulistan-e-Jauhar, Scheme 24/36 vide letter dated 27-03-2023, informed about nonexistence of the plot in question in their record/ approved plan. For verification of the plot, the agency requested the office that owner / complainant may be asked to produce the documents of ownership.

4. Contrary to both the reports, the Assistant Director (Scheme 24), Land Management, KDA, vide letter dated 27-03-2023, confirms that residential Plot No. B-381, Block-6, measuring 372 Sq. Yds in KDA Scheme 24, Gulshan-e-Iqbal, Karachi was originally allotted to Mst. Ayesha Begum w/o Syed Afzal vide Allotment Order No. 1656 dated 26-09-1989. This allotment was made under the order of the then Director General KDA, in lieu of Plot No. B-51, Sector 14-A, KDA Scheme-41, Surjani Town, Karachi, and the physical possession was handed over to the allottee on 02.12.1988 by the concerned Executive Engineer. Later on, ownerships changed hand, first in favor of Mr. Izhar Ahmed on 20-06-2005 and subsequently in favor of Mst. Sumaira Izhar ul Hasan (complainant) vide Mutation Order No. 992 dated 29-09-2005 by way of a registered Sale Deed.

5. During the course of investigations, an Intimation letter dated 06.06.2024 was received by this office from Mr. Sajid Latif, Advocate along with a copy of C.P. No.D-2710 of 2024 filed by him in the High Court of Sindh, challenging therein allotment of residential Plot No. B-381, Block No. 6, Gulshan-e-Iqbal, Karachi. The petition contends that the plot was illegally carved out from ST-19 (an amenity plot).

6. Hearing held on 03-09-2024, which was duly participated by the Assistant Director Land Management, KDA, Assistant Director of Planning & Urban Design, Executive Engineer, KW&SC, and representative of the complainant. The case was discussed at length. The Assistant Director of the Land Department KDA denied about any wrongdoing in the allotment process and handing over physical possession of the land to the original allottee. He defended the allotment of plot to the allottee. However, he contested the claim of alternate plot by the present owner on the plea that once the possession of land was handed over to initial allottee, the Agency thereby relinquished its responsibility. On the other side, the Executive Engineer, KW&SC, remained consistent with his earlier stance that complainant should not be allowed to construct on the plot, but he remained silent over parking of water tankers on the plot. The complainant's representative questioned the veracity of Master Plan, wondering how a plot could be allotted or transferred, if it was not included in the approved working drawing bearing No. PB-24/72 dated 07-08-1976.

FINDINGS:

7. Based on examination of records and reports submitted during the proceedings, I conclude that:

- i. There is no dispute over allotment of Plot B-381, Block-6, Gulshan-e-Iqbal Karachi, as verified through its initial allotment to Mst. Ayesha Begum in 1989. Later the ownerships changed several times with physical possession. The complainant lady acquired the plot in 2005 through a registered sale deed and mutated it in her favor in September 2005.
- ii. One wonders how a plot could be allotted with physical possession and mutated if it didn't exist in the approved Working Drawing.
- iii. If a conduit was passing through the subject plot or the plot was situated in the amenity plot, then why not both the agencies had taken corrective measures, instead of allowing the ownership to change hands with physical possession.
- iv. KWSC previously issued NOC No. EE/WTM-II/KWB/06/861 dated 15.05.2006 to the complainant lady, conditional upon documents verification.
- v. The complainant lady appears to be an innocent purchaser; she purchased the land after getting confirmation from the agency and got it mutated in her favor. How KDA could be justified about asking the complainant to verify her documents.

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- vi. The argument of the KDA that since the physical possession of land had already been handed over to original allottee, thus, they are not under obligation to compensate the lady complainant is contradictory to their earlier statement about non-existing of plot in Working Drawing.
- vii. A Petition No. 2710/2024 has been filed by the Petitioner Ghulam Nabi, Tanker's Association's representative, before the Sindh high Court, concerning the allotment of under reference plot which had allegedly been carved out from amenities plot.
- viii. In the petition KDA, SBCA and the complainant are named as respondents but it does not include the office of the POS and KWSC as respondents, nor does it seek relief or restraint order against the office of the POS, where the investigations were being continued on the complaint of the complainant.
- ix. The Act, 1991 ousts jurisdiction of Ombudsman office on sub-judice matter. Section 9 (a) of the Act defines the sub-judice term as *any matters which are Sub-Judice before a Court of competent jurisdiction or judicial tribunal or board in Pakistan on the date of the receipt of a complaint, referent or motion by him* (the Ombudsman).
- x. The issue as agitated in the petition and the grievance raised in the memo of complaint are different in nature. The petitioner's Tanker Association seeks cancellation of allotment of the plot, whereas, on the other side, the complainant lady after having mutated the plot in her name wants facilitation by the land allotting agency over construction on the plot, or allotment of alternate plot of same size and value, if it was erroneously allotted on amenities land.

DECISION:

8. I, therefore, in exercise of powers vested in me under Section 11 of the Establishment of the Office of Ombudsman for the Province of Sindh Act, 1991, direct the Director General KDA:

- i. Either to facilitate the complainant lady in raising construction on the plot, if genuinely allotted to the allottee in the year 1989.
- ii. Or to provide an alternate plot of the same size and value to the complainant as a remedial measure, if the plot in question was erroneously carved out of the amenity plot.
- iii. He shall ensure to restore the status of amenity plot reserved for Parks, Green Spaces, and Community Facilities etc. An amenity plot must be protected from encroachment by the Water Tankers etc.

The complaint stands disposed of with the above directives.

Given under my hand and seal of this office.



Sd /-
(MUHAMMAD SOHAIL RAJPUT)
SITARA-E-IMTIAZ, PAS
OMBUDSMAN SINDH
Karachi, Dated 5th June, 2025