

IN THE HIGH COURT OF SINDH KARACHI

C.P.No.D-1879 of 2011

Amber Alibhai and others ..... Petitioner  
 V/s. ....  
 Younus Ali Gillani ... Respondents

Filed on 13-8-2011  
 Taken on record 20/9/2011

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INSPECTION REPORT

In compliance of the orders dated: 14-07-2011 passed by the Hon'ble Court in the above matter, undersigned in the capacity of Commissioner issued notice to Advocate for Petitioner, Advocate for Respondent No.1 and D.C.B., K.B.C.A., Block-2, P.E.C.H.S. Area, Karachi for 06-08-2011 to carry out inspection of disputed construction in order to ascertain the factual position as to whether any compulsorily open space has been left. Notice was duly served upon all the above referred parties through Bailiff.

The inspection was conducted on 06-08-2011 in presence of the following:-

1. Mr. Qadir H. Sayeed alongwith Mr. Yousuf A. Sayeed, Advocate for Petitioner
2. Mr. Anwar Khan Ghouri, Advocate for Respondent No.1
3. Mr. Sarfaraz, D.C.B., K.B.C.A., Block-2, P.E.C.H.S., Karachi.
4. Mr. Jafar Imam, A.C.D., K.B.C.A., Block-2, P.E.C.H.S., Karachi.

It is respectfully submitted that the disputed construction is a Ground + Mezzanine + 7 floors under construction building situated on a corner plot bearing No.144/A, Block-2, P.E.C.H.S., Karachi, which is open from 3 sides, whereas at remaining one side, a private school namely "Meritorious Schools Network" is situated. The building is without plaster, while presently shuttering is led for the 7<sup>th</sup> floor. All outer pillars of the building have been raised on plot line resultanty the plot is fully covered and no open space has been left till 3<sup>rd</sup> floor of the building. However, it seems from outside that 10 feet open space has been left from 4<sup>th</sup> floor of the building at the side adjacent to the said private school.

It is further submitted that the concerned DCB was noticed to appear before the undersigned at 1.00 p.m. to carry out the said inspection but

he did not appear till 1.30 p.m. On enquiry through mobile phone by Advocate for Respondent No.1, it was informed that some representatives of KBCA had reached at the site of inspection directly instead to appear before the undersigned.

Therefore, the inspection party including undersigned and the Advocates for Petitioner and Respondent No.1 reached the inspection site at 2.00 p.m., where Mr. Jafar Imam, ACB was present on behalf of concerned DCB. He informed that the DCB was already in the High Court in some other matter and he has come on the direction of DCB to assist the inspection party. When the undersigned enquired to him as to whether any compulsory open space has been left in the building, he could not give satisfactory reply and tried to show the building plan saying that the building is according to such approved building plan and no violation has been committed. However, when the Advocate for Petitioner contented that such building plan is impugned as the same is already challenged in the Court, he told that he is calling the concerned DCB to elaborate the proper position. After waiting for half an hour, the concerned DCB Mr. Sarfaraz reached the site; he too could not give satisfactory reply with regard to compulsory open space and told that he is calling the concerned Director who has approved the building plan.

In the above circumstances, undersigned felt that the K.B.C.A. representatives were not in a position to convince the inspection party and they were trying to shift their responsibility to each other, therefore, undersigned without hearing further left the site for Hon'ble High Court.

It is, therefore, proposed that an Architect Engineer may be appointed as an Arbiter to ascertain the factual position with regard to compulsory open space required to be made in the disputed construction according to the bylaws of Government.

It is to mention here that the K.B.C.A. officials do not take Court notices seriously. Often they do not appear in time, instead to appear in the office of Commissioner; they reach directly at the site of inspection without any information to Commissioner causing wastage of time as well as office work is suffered.

Report is submitted for kind perusal and further orders.

Dated: 12/8/11.

  
12/8/11.  
(GUL HASSAN SAMMO)  
Assistant Registrar, D-1 Branch/  
Commissioner

Encl  
as per  
of C.P.D. 107/11