

P L D 2006 Supreme Court 514

*Present: Iftikhar Muhammad Chaudhary, C.J.,
Mian Shakiurullah Jan and Syed Jamshed Ali, JJ*

SUO MOTU CASE NO.3 OF 2006—Cutting down
of Trees in Jahangir Park, Saddar,
Karachi: In the matter of

Suo Motu Case No.3 of 2006, decided on 5th April, 2006.

Constitution of Pakistan (1973)---

----Art.184---Suo motu action by Supreme Court in the matter of cutting down of trees in a public park---Park in question was being utilized since 1893 as a public place and reportedly City District Government had earmarked the same for the purpose of construction of multistoreyed car parking plaza---Supreme Court, in circumstances, directed the City District Government that although the project had been abandoned for the reasons mentioned in the statement but City District Government was restrained to convert the park in future to any other use save in accordance with law---City District Government was also directed to restore the status of public park and develop the same accordingly. [p. 516] A

Naeemur-Rehman, Advocate Supreme Court for Applicant.

Mrs. Naheeda Mehboob Elahi, Dy. A.-G. and Manzoor Ahmed, EDO (Law), City Government Karachi (On Court's Notice).

Date of hearing: 5th April, 2006.

ORDER

In pursuance of notice dated 27th March, 2006, Manzoor Ahmed, E.D.O. (Law) City Government, Karachi appeared and filed following statement on behalf of City District Government, Karachi:

"The City District Government has already written letter to the Chief Secretary, Government of Sindh. Copy of the same produced herewith annexure "A". However, CDGK has dropped the project for construction of Parking facility on a portion of Jahangir Park due to serious reservations from the NGOs."

2. The above statement is accompanied by another letter (copy of which has been endorsed to the Chief Secretary Sindh by the City District Government, Karachi). Contents thereof are also reproduced hereinbelow:--

"SUBJECT:--CONSTRUCTION OF MULTISTOREYED CAR

PARKING PLAZAS ON VARIOUS POTENTIAL SITES OF KARACHI CITY.

The City District Government had planned for development of multistoreyed car parking plazas at various potential locations in the city, in view of the serious traffic congestions being observed in the CBD area and other arterials experiencing commercial activities resulting from the on-street parking. Under the first phase of the overall strategy the CDGK had planned for development of parking plazas at following five (05) locations:--

1. Lines area near Saddar Dawakhana
2. Clifton near Schon Underpass.
3. Faizi Rehman Gallery near Arts Council
4. Muhammad Community (Old Burial Ground) near Boulton Market Tonga Stand.
5. Portion of Jehangir Park (Machenzie Pavilion Ground) Saddar.

Since the parking problem is very severe in Saddar Area the City Government has already planned for development of parking facility in Lines Area Re-development project. Since this facility is not sufficient to cater for complete demand of parking, it was, therefore, planned to utilize a portion of Jehangir Park for development of multistoreyed parking facility.

In view of the serious reservations from NGOs and the order passed by the Hon'ble Supreme Court of Pakistan on Suo Motu Case No.3 of 2006, the City District Government Karachi has dropped the project for construction of parking facility on a portion of Jehangir Park."

3. The representative of the City District Government explained that a portion of the Jehangir Park was ear-marked for the purpose of construction of multi-storeyed car parking plaza. However, in view of the order of this Court and the objections raised by other Non-Governmental Organizations, the City District Government had decided to drop the project for construction of car parking plaza. Mr. Naeem-ur-Rehman appeared and stated that the park is being utilized since 1893 as a public place, therefore, the City District Government had no lawful authority to convert the same for commercial purposes. Reliance was placed by him on a judgment of this Court in (C.P. No.36 of 2005) Moulvi Iqbal Hadier v. Capital Development Authority etc. He further

stated that the directions be issued to the City District Government for restoring the status of the park to its original position and it should be developed because the same is meant for the public welfare as the general public uses the same from time to time.

4. After having gone through the judgment relied upon by him and on pursuing the statement filed on behalf of the City District Government, we direct that although the project has been abandoned for the reasons mentioned in the statement but City District Government is restrained to convert the same in future to any other use save in accordance with the law. However, in terms of the judgment which has been relied, the City District Government is directed to restore the status of the public park and develop the same accordingly.

5. Petition stands disposed of.

M.B.A./S-32/S

Order accordingly.

P L D 2006 Supreme Court 516

*Present: Iftikhar Muhammad Chaudhry, C.J.,
Mian Shakirullah Jan and M. Javed Buttar, JJ*

SHAUKAT KHAN and others---Petitioners

versus