

06 & 07 Feb 2020
order dated

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Mr. Justice Gulzar Ahmed, CJ
Mr. Justice Faisal Arab
Mr. Justice Sajjad Ali Shah

Constitution Petition No.9/2010, C.M.A.No.6206/2013, C.M.A.No.1552-K/2018 in Const.P.No.9, C.M.A.No.1600-K/2018 in Const.P.No.9, C.M.A.No.22-K/2019 in Const.P.No.9, C.M.A.No.23-K/2019 in Const.P.No.9, C.M.A.No.59-K/2019 in Const.P.No.9, C.M.A.No.101-K/2019 in Const.P.No.9, C.M.A.No.311-K/2019 in Const.P.No.9, C.M.A.No.349-K/2019 in C.P.No.815-K/2016, C.M.A.No.394-K/2019 in Const.P.No.9, C.M.A.No.423-K/2019 in Const.P.No.9, C.M.A.No.425-K/2019 in Const.P.No.9, C.M.A.No.459-K/2019 in Const.P.No.9, C.M.A.No.560-K/2019 in Const.P.No.9, C.M.A.No.521-K/2019 in Const.P.No.9, C.M.A.No.527-K/2019 in Const.P.No.9, C.M.A.No.556-K/2019 in Const.P.No.9, C.M.A.No.606-K/2019 in Const.P.No.9, C.M.A.No.617-K/2019 in Const.P.No.9, C.M.A.No.631-K/2019 in Const.P.No.9, C.M.A.No.690-K/2019 in Const.P.No.9, C.M.A.No.796-K/2019 in Const.P.No.9, C.M.A.No.828-K/2019 in Const.P.No.9, C.M.A.No.830-K/2019 in Const.P.No.9, C.M.A.No.831-K/2019 in Const.P.No.9, C.M.A.No.875-K/2019 in Const.P.No.9, C.M.A.No.889-K/2019 in Const.P.No.9, C.M.A.No.896-K/2019 in Const.P.No.9, C.M.Appel No.116/2019 in C.M.A.Nil/2019 in Const.P.No.9, Crl.O.P.No.7-K/2017 in Crl.O.P.No.11-K/2016, Crl.O.P.No.19-K/2017 in Crl.O.P.No.7-K/2017, Crl.O.P.No.1-K/2020 in Const.P.No.9, Crl.M.A.No.121-K/2017 in Crl.O.P.No.7-K/2017, Crl.M.A.No.124-K/2017 in Crl.O.P.No.7-K/2017, Crl.M.A.No.132-K/2017 in Crl.O.P.No.7-K/2017, Crl.M.A.No.111-K/2018 in Crl.M.A.No.132-K/2017 in Crl.O.P.No.7-K/2017, Crl.M.A.No.243-K/2018 in Crl.M.A.No.8-K/2018 in Crl.O.P.No.7, Crl.M.A.No.8-K/2018 in Crl.O.P.No.7-K, Crl.M.A.No.19-K/2018 in Crl.O.P.No.7-K, Crl.M.A.No.20-K/2018 in Crl.O.P.No.7-K, Crl.M.A.No.25-K/2018 in Crl.O.P.No.7-K, Crl.M.A.No.32-K/2018 in Crl.O.P.No.7-K, Crl.M.A.No.38-K/2018 in Crl.O.P.No.7-K, Crl.M.A.No.44-K/2018 in Crl.O.P.No.7-K, Crl.M.A.No.44-K/2018 in Crl.O.P.No.7-K, Crl.M.A.No.52-K/2018 in Crl.O.P.No.7-K, Crl.M.A.No.59-K/2018 in Crl.O.P.No.7-K, Crl.M.A.No.71-K/2018 in Crl.O.P.No.7-K, Crl.M.A.No.72-K/2018 in Crl.O.P.No.7-K, Crl.M.A.No.95-K/2018 in Crl.O.P.No.7-K, Crl.M.A.No.199-K/2018 in Crl.O.P.No.7-K, Crl.M.A.No.214-K/2018 in Crl.O.P.No.7-K, Crl.M.A.No.229-K/2018 in Crl.O.P.No.7-K, Crl.M.A.No.1-K/2019 in Crl.O.P.No.7-K, Crl.M.A.No.2-K/2019 in Crl.O.P.No.7-K, C.M.A.No.933-K/2019 in Const.P.No.9, C.M.A.No.964-K/2019 in Const.P.No.9 and C.M.A.No.23-K/2019 in Const.P.No.9.

In Const.P.No.9 : Niamatullah Khan Advocate vs. Federation of Pakistan.
In C.M.A.No.6206 : Report of Additional Registrar of this Court.
In C.M.A.No.1552-K : Application for Intervener on behalf of Shoukat Ibrahim and 18

- In C.M.A.No.1600-K : others.
- In C.M.A.No.22-K : Application for Intervener on behalf of M/s YMCA Marriage Lawn.
- In C.M.A.No.23-K : Application for Intervener on behalf of Col. (Retd.) Khalid Mehmood and another.
- In C.M.A.No.59-K : Application for Intervener on behalf of Pakistan Motorcycle Spare Parts Importers & Dealers Association.
- In C.M.A.No.101-K : Application for Intervener filed by Syed Arif Shah.
- In C.M.A.No.311-K : Application for Intervener filed by Syeda Maria Raza w/o Muhammad Tahir Hashmi.
- In C.M.A.No.349-K : Application for Intervener filed by Abdul Qadir Khan, AOR on behalf of Model Customs Collectorate of appraisement (West).
- In C.M.A.No.394-K : Application for Intervener filed on behalf of Public Interest Law Associate of Pakistan.
- In C.M.A.No.423-K : Application for Intervener filed on behalf of Anwar Shah.
- In C.M.A.No.425-K : Application for Intervener filed by Prof. Dr. Muhamad Shahid Hussain.
- In C.M.A.No.459-K : Application for Intervener filed on behalf of Muhammad Jibran Nasir and others.
- In C.M.A.No.460-K : Application for Intervener on behalf of Muhammad Ameer Shah.
- In C.M.A.No.521-K : Application for Intervener on behalf of Yousuf Masih.
- In C.M.A.No.527-K : Application for Intervener filed by Murtaza Ali.
- In C.M.A.No.556-K : Application for Intervener filed by Advocate Aqeel Hassan Khan.
- In C.M.A.No.606-K : Application for Intervener filed on behalf of Feroz Akhtar and others.
- In C.M.A.No.617-K : Application for Intervener filed on behalf of Muhammad Shakeel and Anjuman-e-Falah-o-Behbood.
- In C.M.A.No.631-K : Application for Intervener filed by Venu Advani.
- In C.M.A.No.690-K : Application for Intervener filed by Mrs. Nelofar Abbasey.
- In C.M.A.No.796-K : Application for Intervener filed on behalf of Naseer Abdullah Hussain Lootah and M/s Quality Builders Limited.
- In C.M.A.No.828-K : Application for Intervener filed on behalf of Sindh Madressatul Islam University through its Registrar.

- behalf of M/s Haji Abdullah Haroon Muslim, Gymkhana, Karachi.
- In C.M.A.No.830-K : Application for Intervener filed on behalf of M/s 4Est. Developers (Pvt.) Limited through its Company Secretary Sohail Malik.
- In C.M.A.No.831-K : Application for Intervener filed on behalf of Pakistan Railways Employees Cooperative Housing Society Limited through its authorized person, Mehmood Baloch.
- In C.M.A.No.875-K : Application for Intervener filed by Muhammad Saleem Qureshi.
- In C.M.A.No.889-K : Application for Intervener filed on behalf of Pakistan Post through Postmaster General, Karachi.
- In C.M.A.No.896-K : Application for Intervener filed by Nazir Haider Alam Jaffari.
- In C.M.Appeal No.116 : M. Tariq Mansoor, Advocate **vs.** Federation of Pakistan & others.
- In CrI.O.P.No.7-K : Mst. Sabiha Parveen **vs.** Syed Nasir Abbas, Director General (KDA) and others.
- In CrI.O.P.No.19-K : Ghulam Mohiyuddin. **vs.** Province of Sindh through Secretary, Local Govt. and others.
- In CrI.O.P.No.1-K : Syed Mehmood Akhtar Naqvi. **vs.** Qazi Shahid Pervais, Sr. Member Board of Revenue, Govt. of Sindh and others.
- In CrI.M.A.No.121-K : Application for Intervener filed by Muhammad Essa.
- In CrI.M.A.No.124-K : Application for Intervener filed by Muhammad Ismail Shaheedi.
- In CrI.M.A.No.132-K : Application for Intervener filed by AOR for the applicant Anjuman-e-Kalayna.
- In CrI.M.A.No.111-K : Application for withdrawal filed by in person, namely, Anjuman-e-Kalayna through its President.
- In CrI.M.A.No.243-K : Application for withdrawal filed by in person, namely, Anjuman-e-Sadat-e-Amroha through its President.
- In CrI.M.A.No.8-K : Application for Intervener on behalf of Anjuman Sadat-e-Amroha.
- In CrI.M.A.No.19-K : Application for Intervener filed by Mr.A.S.K. Ghori AOR on behalf of applicant namely, Muhammad Jaffar.
- In CrI.M.A.No.20-K : Application for Intervener filed by Muhammad Raees.
- In CrI.M.A.No.25-K : Application for Intervener filed by

- Mr. K.A.Wahab on behalf of Aligarh Muslim University.
- In CrI.M.A.No.32-K : Application for Intervener filed by Mr.Ghulam Qadir Jatoi, AOR
- In CrI.M.A.No.38-K : Application for Intervener filed by Applicant namely, Akbar Hussain.
- In CrI.M.A.No.44-K : Application for Intervener filed by Mr.K.A.Wahab, AOR
- In CrI.M.A.No.52-K : Application for Intervener filed by Muhammad Asif Shaif.
- In CrI.M.A.No.59-K : Application for Intervener filed by Mr.Ghulam Rasool Mangi, AOR on behalf of applicant namely, Shah Mohammad.
- In CrI.M.A.No.71-K : Application for Intervener filed by Muhammad Hussain, in person.
- In CrI.M.A.No.72-K : Application for Intervener filed by Mr.Mazhar Ali B. Chohan, AOR on behalf of Anjuman-e-Muslman-e-Kalyana.
- In CrI.M.A.No.95-K : Application Intervener filed by Imdad Hussain, applicant in person.
- In CrI.M.A.No.199-K : Application for Intervener filed by Mr.Ghulam Qadir Jatoi, AOR on behalf Arif Hussain and others.
- In CrI.M.A.No.214-K : Application for Intervener filed by Salman Muhammad.
- In CrI.M.A.No.229-K : Application for Intervener filed by Mr.Ghulam Qadir Jatoi, AOR on behalf of KDA Officer Club.
- In CrI.M.A.No.1-K : Application for Intervener filed by Mr.Mazhar Ali B.Chohan, AOR on behalf of Moulana Muhammad Ali Johar Memorial Coperative Housing Society.
- In CrI.M.A.No.2-K : Application for Intervener filed by Muhammad Farhan.
- In C.M.A.No.933-K : Application for Intervener file dby Mrs.Mahamadi.
- In C.M.A.No.964-K : Application for Intervener filed by Mrs.Mahamadi.
- In C.M.A.No.23-K : Application for Intervener filed by Asad Khalil Ahmed.

IN ATTENDANCE

Mr. Anwar Mansoor Khan, Attorney General for Pakistan
Syed Faiz ul Hassan Shah, P.G. Sindh
Mr. Adil Rafiq Siddiqui, Director ML&C
Mr. Yawar Farooqui, ASC
Syed Imtiaz Hussain, MIA, KPT
Mr. G.M. Qureshi, Chief Legal Counsel, Board of Revenue
Mr. Shahid Jameel, Principal Law Officer, SBCA
Mr. Ashkar Dawar, Addl.Director, SBCA

Malik Ejaz, Director, SBCA
Mr. Muhammad Farooq Laghari,
D.G. Layari Authority
Mr. Arshad Khan, D.G. National Stadium
Mr. Amanullah Zardari, DS/Focal Person
Mr. Tasleem Akhter,
Secretary (Legal) Customs FBR, Islamabad
Mr. Zakir Hussain Khaskheli, ASC
Mr. Abdul Rehman, ASC
Mr. Salahuddin Ahmed, ASC
Mr. Kashif Sarwar Paracha, DAG
Mr. Salman Talibuddin, A.G Sindh
Mr. K.A. Wahab, AOR
Dr. Raana Khan, AOR
Mr. Abdul Qadir Khan, AOR
Syed Jameel Ahmed, ASC
Mrs. Abida Parveen Channar, ASC
Mr. Mazhar Ali B. Chohan, AOR
Mr. Zakir Hussain Khaskheli, ASC
Mr. Akhter Hussain, ASC
Mr. M. Umar Riaz, ASC
Mr. Sanaullah Noor Ghori, ASC
Raja Qasit Nawaz Khan, ASC
Syed Ali Zafar, ASC
Mr. Muhammad Noman Jamali, ASC
Mr. Arshad M. Tayyabali, ASC
Mr. Faisal Siddiqui, ASC
Mr. Muhammad Aqil, ASC
Mr. Abrar Hassan, ASC
Mr. Badar Alam, ASC
Mr. Ubaid-ur-Rehman, ASC
Mr. Sarfaraz Metlo, ASC
Mr. Muhammad Ashraf Samoo, ASC
Mr. M. Sohail HK Rana, ASC
Mr. Nazar Hussain Dhoon, ASC
Syed Ashiq Raza, ASC
Mr. Abdur Rehman, ASC
Mr. Tasawar Ali Hashmi, ASC
Syed Sho-un-Nabi, ASC
Mr. Iftikhar Shalwani, Commissioner of
Karachi.
Mr. Waseem Akhter, Mayor Karachi.
Dr. Saif-ur-Rehman, Municipal Commissioner
Mr. Saeed Ahmed Qureshi Focal Person Govt.
of Sindh
Mr. Masood Alam, Director
Mrs. Azra Muqeem, Law Officer
Mr. Zafar Ahsan, D.G SBCA
Mr. M. Wilayat Sr. Director MPD-SBCA
Admiral Jamil Akhter, Chairman KPT
Syed Mumtaz Ali Shah, Chief Secy
Mr. Mushtaq Soomgo, Director SBCA
Mr. Asadullah Khan, M.D KWSB
Mr. Zohair Fazil, Dy. Chief M/o Panning
Islamabad
Mr. Saeed Ghani, Minister

Mr. Yousuf Molvi, ASC
 Mr. Hassan Akber Addl: P.G. NAB
 SSP and SP City Karachi.
 Dr. Usman Chachar, Addl. Secretary,
 Home Deptt.
 Mr. Zulfiqar Mahar, AIG Legal
 Mr. Mazhar Hassan, AIG Legal
 Mr. I.D. Mangi, AIG Legal
 Shahnawaz, SP East
 Zahid Bin Khalil, Director (Anti-
 Encroachment) DMC East
 Salman Sabir, Adv. (Legal Advisor) DMC East
 Muhammad Aslam, Legal Advisor
 Cantonments
 Mr. Hasan Nasir Jami, DG CAA
 Waseem Shahid MEO/CEO Faisal Cantt.
 Qazi Rizwan Ahmed, CEO Karachi Cantt.
 Rana Kashif, CEO Clifton Cantt.
 Aamir Rashid, CEO Malir Cantt.
 Farooq Hasan, JS MOD Cantonment
 Shafiq Gohar, DS Manhora Cantt.
 Samina Shabir, CEO Korangi.
 Mureed, Joint Secy. NH&LH Div. Islamabad
 Ghazanfar Hussain, Registrar NED
 Dr. AJ Sangi, NED
 Shabi-ul-Hasan, LDA
 M. Irfan, Law Officer-MDA
 Ahmed Noor, (DD) ASF
 Karamddin Junejo, Nazir High Court
 Ghulam Akbar Laghari, Secy. Culture
 Mushtaq Masih, Principal YMCA
 Aijaz Mazhar, CEO PIA
 Naeem Mughal, DG SEPA
 Habib-ur-Rehman, Secy. Pak-Railways
 Nisar Memon, DS Pak-Railways
 Salman Kazmi, Legal Advisor Pak-Railways
 Khalid Muneer, Law Officer Pak-Railways
 Mehmood Akhter Naqvi, in person
 Chanzeb, Law Officer
 Ambar Ali Bhai, Shehri CBE
 Saleh Ahmed Farooqi, CEO (KIDCL)
 Mr. Zafar Ahsan, D.G SBCA
 CMA No.59,101,71,521,23,896/2019
 Cr.O.P-07-K/17, Cr.O.P 01-K/20, Cr.M.A 20-
 K/18
 (in persons)

Dates of Hearing:

06 & 07.02.2020

ORDER

Gulzar Ahmed, CJ.:-

Karachi Circular and Local Trains.

We have extensively heard the matter regarding the Karachi Circular Trains so also Karachi Local Trains. During the course of hearing the Secretary Railways has made a statement that the Executive Committee of the National Economic Council (**the ECNEC**) has taken a decision of handing over the operation and running of the Karachi Circular Trains and Local Trains to the Provincial Government of Sindh. We have asked him to place before the Court such a decision of the ECNEC but he was unable to show the same. The Secretary Railways shall ensure filing of the said decision of ECNEC and in this regard the matter is adjourned to 21.02.2020.

C.M.A.No.690-K/2019.

Royal Park Building

2. This matter relates to a plot of land measuring 2 Acres, said to be bearing Survey No.333 out of Na-class No.210, Deh Okewari, Gulshan-e-Iqbal Town, Karachi, adjacent to Aladdin Park on Rashid Minhas Road, on which apparently, a residential/commercial building was being constructed and in the order of this Court dated 09.05.2019, it was noted that the land on which this construction was taking place, was owned by the Evacuee Trust Board and it was also pointed out by Mr. Ashraf Saeed, Chairman ABAD, that this land belongs to the Horticulture Society. The Court, therefore, issued notice to the builder and at the same time restrained the builder from making further construction and directed the Commissioner, Karachi to take possession of the said project. The builder, in response to the said notice, has filed CMA 690/K of 2017.

3. Mr. Badar Alam, learned ASC has appeared on behalf of the builders and contended that the builders were allotted this land by the

Sindh Revenue Board on 04.05.1991 and a 99-years lease dated 07.07.2010 of the land has also been made in favour of the builder.

4. On the other hand, Mr. G.M. Qureshi, Chief Legal Counsel for the Evacuee Trust Board, has strongly opposed this contention of the builder and contended that this land belongs to the Evacuee Trust Board and at the same time, it was also contended by the former Chairman, ABAD that the land was allotted to the Horticulture Society by KDA but due to non-payment, the KDA cancelled the allotment to the Horticulture Society and some litigation on this aspect of the matter is going on.

5. Learned Advocate General also stated that the land was allotted to Horticulture Society by KDA but owing to non-payment, the KDA cancelled the allotment.

6. We have considered the submissions of the respective counsel and have also gone through the record of the case. The builder claim ownership of the land on the basis of an allotment letter dated 04.05.1991 and execution of lease dated 07.07.2010.

7. The allotment letter relied upon by the learned counsel for the builder is attached at page-43 of CMA No.690-K/2019 filed by the builder and such allotment letter is in respect of two acres of land in Na-class No.187, Deh Okewari, Taluka Karachi East. The lease dated 07.07.2010, which is filed at page-37 along with the said CMA, refers to the letter dated 04.05.1991 but in recital No.3, it shows that there is an exchange of two acres of land from Na-class No.210, Deh Okewari, Gulshan-e-Iqbal Town, Karachi on the same terms and conditions in lieu of area of two acres from Na-class No.187 vide letter dated 21.06.2010 of the Secretary Land Utilization Department, Government of Sindh. This letter of exchange dated 21.06.2010 is not available on

the record. The document dated 08.06.2010, which is a letter of the Secretary of the Land Utilization Department, Government of Sindh, addressed to the Executive District Officer (Revenue) CDG, Karachi, makes reference to the regularization of two acres of land from Na-class No.187 of Deh Okewari, Karachi. The minutes of meeting of the Sindh Government Land Committee dated 26.08.2009, in the first place, make reference to regularization of 30 acres of land from Na-class No.187 Deh Okewari, Karachi to Naseer Abdullah Hussain Lootah and ultimately, decided to regularize two acres of land from Na-class No.187 of Deh Okewari, Karachi. The possession letter dated 06.03.2014 (at page-50) shows that the builder has been given possession of Survey No.333, Na-class No.210 of Deh Okewari, Karachi. In the copy of the site plan (at page-75), there is no mention of Survey No.333 in Na-class No.210, rather Na-class No.210 has been shown altogether separately from the two acres of land claimed by the builder, on which survey number is not mentioned. There is no mention of Na-class No.187 in the site plan. The SBCA, through its letter dated 01.06.2016, has given approval of proposed building plan on plot No.A, Survey No.333, two acres in Na-class No.210, Deh Okewari, Scheme No.24, Gulshan-e-Iqbal Town, Karachi. There is no plot-A in Survey No.333 in Na-class No.210 and the Scheme No.24 of Gulshan-e-Iqbal Town, Karachi, which is referred to in this letter, is a KDA Scheme and the title, ~~thus~~, has to originate from KDA and not from the Revenue Department of the Government of Sindh. There is a letter dated 11.11.2015 (at page-80 of the application), which tries to explain bifurcation of Na-class No.187 of Deh Okewari, Karachi into Na-class No.209 and 210 and further stating that there was no shifting of its original location nor is it a case of exchange under Section 17 of the Colonization of Government Land Act, 1912. This very

letter of the Survey Superintendent, Karachi addressed to the Section Officer-I, Land Utilization Department, directly contradicts what is mentioned in the lease dated 07.07.2010, which is specifically referred to as an exchange.

8. The learned counsel for the applicant also read Section 10-A of the Colonization of Disposal of Government Lands Act, 1912, Clause (b) of sub-section (2) of which provides as follows: -

"(b) no land for commercial purpose shall be disposed of except by open auction at a price not less than market price."

We have asked the learned counsel to show whether any auction of the land in question was conducted. In reply he states that he has no document to show that any auction was conducted. He admits that the provision of section 10A (2) (b) applies to the property in question. Where the very basic requirement of holding auction of public property is not complied with, the sale of government land by the Government of Sindh to anyone, including the present applicant, was *void ab initio* on the face of it. It will be regarded as an illegal exercise on the part of the Government of Sindh. Hence the land in question is purported to have been illegally sold by the Government of Sindh, Revenue Department, thus, all documents pertaining to transfer of the said land, right from its allotment dated 04.05.1991 un-till the execution of lease dated 07.07.2010, are hereby declared as unlawful. Even otherwise, the allotment and lease, appear to be false and fraudulent documents and thus, not sustainable in law and are hereby cancelled. The application is dismissed.

9. The Commissioner, Karachi is already in possession of this property which is purported to have been under construction. The

Commissioner, Karachi is directed to immediately demolish the building and clear the land. Such exercise will be carried out by the Commissioner, Karachi within a period of two months and a report in this respect shall be made available to this Court.

10. We further note that in the very order of allotment dated 04.05.1991 (placed at page 43 of the CMA), several other allotments of land have been made in N-class No.187 of Deh Okewari Taluka Karachi East. M/s Ahmed Ali Construction Company were granted 15 acres, Mubeen International 2 acres, China Builders 2 acres, Mustafa & Company 2 acres, Combined Builders 2 acres and Mrs. Sabra Begum 1 acre. Let a report regarding such allotments and the present status of the lands so allotted be submitted by the Commissioner, Karachi to us in a written report as we apparently find that such allotments also suffer from grave illegality, not being based on genuine letter(s) of allotment and the Government of Sindh, could not have leased the land for 99 years for residential cum-commercial purposes in the stated manner, as such condition of allotment is nowhere available in any provision of law. Any relaxation in this regard is also against the public policy.

Kidney Hill Park

11. As far as the Kidney Hill Park on Shaheed-e-Millat road is concerned, although it is claimed by the Mayor, Karachi (**the Mayor**) that the whole of the 62 acres of land has been vacated from encroachers and working on making it a public park has started and large number of trees have already been planted, however, one Mrs. Amber Ali Bhai, CEO Shehri has pointed out that the whole of the 62 acres of land has not been vacated as there still remains seven and a half acres of land under encroachments and on such land there exist houses and a school, by the name of Foundation Public School. If such

6-7
Kidney

be the position, Commissioner Karachi is directed to ensure removal of all illegal encroachments from the remaining seven and half acres of land, after due verification of site and record. Such exercise shall be carried out today and compliance report be submitted before the Court tomorrow i.e. 07/02/2020.

Hill Park

12. Regarding Hill Park, it is informed that the Park land has been encroached and constructions thereon have been made. The Commissioner Karachi undertakes that all illegal constructions from the Park Land shall be immediately removed and not an inch of the land, on which park was established will be allowed to be encroached upon. A report in this regard shall be filed by the Commissioner Karachi within a period of two weeks. If any order has been passed in this regard by any of the Courts below, the same shall have no effect and this Court, exercising jurisdiction under Article 184(3) of the Constitution, its order shall have precedence over such orders will be executed accordingly.

Bagh Ibn-e-Qassim

13. As regards the demolished building on Bagh Ibn-e-Qassim and the status quo order passed, which prevents KMC from removing the debris, notice was issued to the builder. No one has appeared on behalf of the builder, who is said to be known as "Cool Builders". In the circumstances, we direct the Commissioner Karachi to remove the debris of the demolished building from Bagh Ibn-e-Qassim and recover the cost from the builder. In case the builder does not pay the cost, the same shall be recovered by auctioning the debris that contain valuable iron and other material, which may be removed from the site of construction. The Commissioner Karachi shall conduct this exercise of

removal of debris from the site within a period of two weeks and restore the park to its original position.

KIDCL

14. As far as the Karachi Infrastructure Development Company Limited (**KIDCL**) is concerned, it is stated by Mr. Saleh Ahmed Farooqi, CEO of this Company that construction work on the Green Line Section was completed in the year 2017, however, for the Blue Line section, work was assigned to Bahria Town, who has since backed-out and now this work has been entrusted to his company. He states that the work on the entire project is likely to be completed by the end of this year and the transport facility will be operationalized by March, 2021. We may note that while this Company is doing construction work, it shall not be allowed to occupy or to make construction or to interfere with any of the existing parks, playgrounds or amenity spaces, meant for the public use and if any additional land is required by them for the project, the same shall be acquired by it from the relevant quarters, in accordance with law but without affecting any of the amenities noted above.

Civil Aviation Authority.

15. As regards the Sports Complex land of Civil Aviation Authority, which was earlier gifted by it to Jesus and Mary School, it is stated by the D.G. Civil Aviation Authority (**the CAA**) that such land stands reverted back to the CAA, which has an area of 39344 square yards (above 8 acres). The D.G. CAA states that some action has to be taken by the Karachi Development Authority (**KDA**).

16. The Acting D.G. KDA states that restoration of the land in the name of CAA has still not been made by the KDA, while the possession of such land is with the CAA. The Acting D.G. KDA made a categorical statement that the land will be transferred in the name of

CAA -
over

the CAA within a period of one week. When that is done, the D.G. CAA shall immediately embark upon developing the whole land into a green area/public park for the benefit of the people of Karachi. The representative of Shehri, states that fruit trees may be planted upon the land but we leave this aspect to the D.G. CAA to decide, after discussing with neighbours and concerned persons. The D.G. CAA shall seek professional help in this regard, to set up green area/public park. We expect that this work shall be completed by CAA within a period of six months' time from today and the D.G. CAA shall submit a report in this regard to this Court, demonstrating that such object has been achieved.

17. The D.G. CAA further states that the CAA has a large tract of open land around the Jinnah International Airport, Karachi, which he has visited. He has stated that initially, the CAA had thought of using some land around Jinnah International Airport, Karachi for commercial exploitation but when the Court brought to the attention of D.G. CAA that in and around the Airports, the lands in Pakistan are generally used for making of parks, the D.G. CAA agreed that no land around Jinnah International Airport, Karachi will be used for any commercial exploitation, rather, it will be utilized as an amenity for the people and particularly, parks and thick urban forest for the betterment of the environment in and around the Jinnah International Airport, Karachi, and allow such parks and forest to be used and enjoyed by the general public. The D.G. CAA has assured that the project of building parks and thick urban forest, in and around Jinnah International Airport, Karachi, shall be commenced soon and will be completed in the shortest possible time, with consultation with all professional people including Horticulture Department and that the D.G. CAA shall make all efforts to complete this project within a period of six (06) months.

18. It was further informed that ST-21 Plot at Clifton Karachi is a huge chunk of amenity land, about 23 acres or more, out of which more than 8 acres of land has been allotted to CAA for Squash Complex, while the remaining land of the said ST-21 plot is lying vacant and some encroachment(s) also appears to have been made on it. The Commissioner Karachi along with the Acting D.G. KDA shall ensure that whatever land of ST-21 plot remains, excluding the plot of CAA, the same shall be got vacated from all sorts of encroachments and utilized for public amenity for which it was originally meant, i.e. a public park is to be built on it. The D.G. CAA has already stated that the plot of Squash Complex of CAA shall be transformed into a green area/public park. The remaining part of the said ST-21 plot shall also be made a green area with a huge public park and thick urban forest for the benefit of the environment and the people of Karachi and if any encroachment is found on it or any allotment is made on it, the same shall be cancelled and the whole plot of ST-21 will be restored as a public park and thick urban forest. The bifurcation of the ST-21 plot, into 21-A and 21-B shall immediately be revoked and the whole of ST-21 shall be considered as one plot and used for amenity purposes, as provided in the plan, i.e. green area, park and forest. The Commissioner Karachi shall ensure that this is done within six months' time and a report in this regard be submitted to this Court.

Hyatt Regency Hotel

19. The matter regarding the Hyatt Regency Hotel and its land has come up before us but so far no clear picture about its fate has appeared before us. The Commissioner, Karachi has made a statement with regard to the sustainability of its structure but still we need to see the opinions of expert engineers. Let a report in this regard be made

available to the Court and such will be done before 21.02.2020. The Attorney General for Pakistan is also directed to appear before the Court and submit the stance of the Federal Government regarding its status. The Secretary Railways shall also give his report. Notice be also issued to the party who is claiming ownership of this property.

SEA BREEZE COMPLEX

20. A report dated October, 2019 has been submitted, jointly by National Engineering Services Pakistan (Pvt) Ltd. (NESPAK) and Pakistan Engineering Council, regarding the structural evaluation of the building, namely Sea Breeze Complex Building M. A. Jinnah Road, Karachi. Let a copy of this report be given to the Karachi Cantonment Board, who shall examine the same and furnish its own report after consultation with its engineers and professional engineers hired from outside. Such report be made available by the Karachi Cantonment Board to this Court with specific mention as to whether such building be allowed to remain or needs demolition. Needful be done within two weeks. The debris which are lying in the building and the water that has accumulated in its foundation shall be allowed to be removed/ drained out by Sea Breeze Complex Association and such exercise will be done in the presence of the officials of the Karachi Cantonment Board as well as the Sindh Building Control Authority (**the SBCA**). The SBCA has not submitted its report about the stability of this building. The expert report shall be submitted within a period of two weeks.

YMCA

21. With regard to the YMCA Ground, it has already been noted by us in our order dated 09.05.2019 that all sorts of commercial activities have been stopped and all structures of marriage halls etc. have been removed. The Commissioner, Karachi states that the YMCA

Ground is being used for playing hockey and other sport purposes. He states that he is also going to plant trees all around the playground and also provide other conveniences and facilities for the players, etc. without making any permanent structure. This exercise shall be undertaken by the Commissioner, Karachi from the funds of the Government of Sindh and it will be done within a period of one month from today. The concrete boundary wall shall also be removed, and instead, strong iron grills shall be affixed at its boundary. This too, will be done by the Government of Sindh through Commissioner, Karachi. Needful be done within a period of two months.

22. There is a dispute pending in the High Court with regards to the management of the YMCA between two rival groups. Such matter has been pending for quite some time and we expect the decision in that case will be made by the High Court within a period of six months. The Registrar of the High Court of Sindh shall put up a report with regard to the disposal of this case to the Registrar of this Court for our perusal in Chambers.

Muslim Gymkhana

23. As regards the Muslim Gymkhana, the Secretary of the Gymkhana has himself made a statement before the Court on 09.05.2019 that the Gymkhana will replace the concrete boundary wall with iron fencing. Now a counsel for the Gymkhana has appeared and has requested us for modification of this order. We are not persuaded by such request of the counsel, in that, the matter already stood concluded in our order dated 09.05.2019, which has to be complied with in letter and spirit by the Muslim Gymkhana. In case compliance is not made, the managing committee of the Gymkhana and its office

bearers shall make themselves, liable to be proceeded against for the Contempt of Court.

Benazir Park

24. The matter regarding the buildings by the name Com-3 on Benazir Park, Boat Basin, Clifton Karachi has been argued before us and it is stated that one Akhlaq Memon claims to be its owner. Let notice be issued to him for his appearance on the next date of hearing along with all records pertaining to ownership of the land and approval of the building plan as apparently, the land is an amenity plot and part of the Benazir Park. To come up on 21.02.2020.

Shahrah-e-Quaideen

25. As regards the building on the corner of Block A of SMCHS, where Shahrah-e-Faisal and Shahrah-e-Quaideen meet, the DG, SBCA states that when plans were approved, its construction was allowed on this plot. It was pointed out that this plot originally did not exist on the map of SMCHS Block A, rather it appears to have been carved out from the service road amenity/nala land and in doing so not only the SMCHS exceeded its power but also the SBCA and so also all other authorities responsible for construction of this building, who shall be dealt with severely in accordance with law. We have also noticed that Shahrah-e-Quaideen is not being maintained and is in a totally dilapidated condition. There is no semblance of any greenery or beauty on this road and all that can be seen is dust in the middle and both sides of the roads and car dealers and car repairers have made it a parking space for their cars and are exploiting the amenity land, otherwise meant for greenery, trees and beautification. The word Shahrah-e-Quaideen itself depicts that the road is named after the Quaideen of the country and at

one time the Quaid-e-Azam Mausoleum with Mausoleums of other Quaideen clearly used to be visible from Shahrah-e-Faisal; now it is not, in that it has been surrounded by all types of bad and illegal constructions. The Commissioner, Karachi shall immediately ensure that the Shahrah-e-Quaideen and its three islands, one in the middle and two on both sides of the roads, are cleared from all sorts of encroachments and occupations and that these are turned into beautiful green belts with thick forestation from Shahrah-e-Faisal all the way to the Quaid's Mausoleum. The service road on both sides of Shahrah-e-Quaideen shall also be cleared to make it serviceable and parking shall not be allowed on them. The denters, painters and car repairers have their shops on both sides of Khudadad Colony and Commissioner, Karachi should ensure that these businesses in this area are not conducted and are reallocated to some appropriate place. Encroachment has been made on the green belt on the left side of the road going from Shahrah-e-Quaideen to Kashmir Road and such encroachment seems to have been made by some trust. Such encroachment should immediately be removed by the Commissioner Karachi and green area restored to its original position.

26. It is generally complained against the SBCA that it is allowing the construction of multi-storeyed buildings on small plots of land all over Karachi. This is apparently both against the law and also not sustainable. The permissions for raising of illegal constructions/buildings in Karachi are being allowed by the officials of SBCA on receiving illegal gratification and the DG, SBCA appears to be privy to all these activities.

27. In so many of our orders, we have noted that the SBCA is an authority, which has become totally superfluous, rather, it has itself

become a cause of serious damage to the City of Karachi, for the personal gains of its own employees. Additionally, mushroom growth of illegal and unlawful constructions, which should not at all have been allowed, are being allowed and it appears that from top to bottom the whole institution seems to have compromised its position and has made a total disaster of the City of Karachi. If one goes by mere observation, there are thousands of buildings in Karachi which, by their very look, show that they have been constructed illegally and in violation of building laws and it appears that such has been facilitated by SBCA's officials who indulge in bribery. The police department and other government officials also give protection to these activities.

28. So far as the present DG SBCA is concerned, he merely appears to be a rubber stamp for the employees of SBCA and other government officials. He cannot take his own decisions regarding disallowing construction on the basis of the provisions of SBCA Ordinance and Regulations. In this view of the matter, it is high time that the Chief Minister of Sindh should look into the matter and take immediate measures for overhauling the SBCA and as a first step, remove the top officials of this authority, including the present DG SBCA and replace them with some honest persons, who can perform their jobs with propriety, honesty and in total obedience of the law on the subject. No further exploitation of rights of the people of Karachi shall be tolerated.

29. The Chief Secretary, Government of Sindh shall immediately take over the affairs of SBCA and deal with the same as per the law of buildings and he shall provide to the Court all approvals of buildings granted by the SBCA of more than ground plus two floors in the whole of Karachi in the last ten years, along with their addresses,