

Date of hearing : 9.5.2019

ORDER

We have heard the Secretary, Railway with regard to operation of circular train in Karachi so also the local train. He has assured that so far the work of railway is concerned, the same will be completed within a period of fifteen days from today and thereafter the Sindh Government will take over the said project and run the trains both circular as well as the local. The Sindh Government shall ensure that circular railway as well as the local railway get in operation within further one month's time. The Chief Minister, Sindh, Mayor of Karachi, Chief Secretary, Sindh, the Commissioner, Karachi and the Railways Authorities shall ensure that this schedule of operation of circular as well as local train is adhered to and this service is made available to the people of Karachi within this period without fail and whatever assistance is required the Federal Government, Planning Division, shall give its input and ensure that the train is made operational within this period. The Secretary, Railway states that the matter regarding removal of the encroachment from the railway land has already been initiated and that he will ensure that all encroachment from the railway land is removed. We may, however, note that there are almost like thousands of residents on the encroached land who are residing there and doing their business and such has been brought about by the railway itself. The railway shall ensure

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Secretary, Planning Division

Karachi

that the removal of encroachment will be made but the people who are dispossessed or dislocated from this operation are accommodated appropriately and for this purpose the railway is going to take assistance from the Federal as well as the Sindh Government and also from the Mayor, City of Karachi. The Secretary, Railway has informed that a survey in this respect has already been made and all encroachers have been identified and their list has been prepared and the matter has also been discussed with the Sindh Government who has agreed to provide appropriate location for the resettlement of these encroachers. We may, however, caution both the Railway Ministry as well as the Sindh Government that wherever these encroachers are going to be settled, proper amenities like of a modern living shall be provided to them and such place is not going to be allowed to become another slum in the city of Karachi. In this regard proper consultation with city planners and developers should be obtained in advance so also all engineering concerns as well as the environmental authorities be taken on board. We expect that all these things will be done on top priority by all these authorities and the shifting will be achieved within a period of one year. Progress report in this regard shall continuously be given by the Mayor of Karachi, Chief Secretary, the Commissioner, Karachi as well as the Secretary, Railway. Such report shall be made available to the

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Court on the next date of hearing which will be during next session.

2. An issue has been raised regarding construction of a huge building which is adjacent to Alla Din Park on Rashid Minhas Road. The land is claimed by the Evacuee Trust Board and it is stated by Mr. Muhammad Zarif Abbasi, Supervisor, Evacuee Trust Board that the land has been illegally occupied and illegal construction is being raised on the said land for that it is specifically the property of the Evacuee Trust Board. It is stated that the Sindh Building Control Authority has allowed construction of the said building. The D.G. Sindh Building Control Authority, who is present before the Court, states that a part of land belongs to the Board of Revenue. On the other hand, Mr. Ashraf Saeed, Former Chairman, Abad, states that this land belongs to Horticulture Society and some private party has encroached upon the same and with the connivance of all government departments has started raising construction of a commercial complex. Construction on the said project is immediately stayed from today and all relevant authorities of the government shall ensure that no further construction on the said project is made rather the possession of it is taken over by the Commissioner, Karachi who will ensure that no person enters the said premises until the issue pertaining to it is decided. Person claiming ownership of the said project be issued notice for his appearance on the next date of hearing.

3. As regard all over infrastructure of the city of Karachi, it is stated by the Mayor, city of Karachi that he has no power with him to do any work for the city of Karachi for that all his powers which were originally mentioned in the Sindh Local Government Act, 2013, through amendment, have been taken over by the Sindh Government itself and now the Sindh Government is running the City of Karachi itself through its own Secretaries including Secretary, Home who is doing the development work of the City of Karachi although the rule of business does not provide for any such work being done by the Secretary, Home. It is strange that Secretaries of the Government of Sindh who are supposed to look after the whole of Province of Sindh to attend to their respective work rather have been allowed to work for the development of the City of Karachi and we are not informed by anyone that such activity of the Secretaries of the Sindh Government is legal and proper activity permissible by the law. In this respect, the Chief Secretary, Government of Sindh, shall file a proper report before this Court explaining as to why the local government in the City of Karachi has been made function less for that it is not prepared to take responsibility in respect of any of the development work in the City of Karachi as it is further stated by the Mayor, City of Karachi that his financial powers have also been taken away and all income of the city of Karachi is being received by the Sindh Government. Whatever may be the status of various functionaries of the Government of

Sindh or the local government of Karachi or all other civic agencies who are responsible for dealing with the affairs of the City of Karachi, the most sorry situation is that none of the agencies seem to be working or even interested in working and there is absolutely total collapse of all civic agencies in the City of Karachi and there seems to be no manner in sight where it can be seen that any work is being done to remedy this situation. The difficulty is that the employees sitting in these agencies have created their own personal interest and thus their very utility in these agencies have become questionable. The Government of Sindh, especially, the Chief Minister of the Province of Sindh is required to go into all these matters and to take proper action for remedying this state of affairs. We may note that this is what is happening in the City of Karachi which has come before us, and while we propose to go beyond Karachi, there is likely that further mass will come-up before us in that all sort of illegal activities have been allowed to be conducted by encroaching government lands, park and amenity lands, playground land, hospital and graveyard land and land meant for educational purposes and land meant for amenity purposes to be left open and constructions have been made all over without taking into consideration the very viability, permissibility, suitability or legality of such construction at the place where they have been raised. No City planner and developer or proper architect, engineer and environmental

agencies is involved in such work and everything is going on through the hands of people who are not at all qualified to undertake the same. There are so many *Kachi Abadies* in the City of Karachi and even Government quarters are giving look of slum area and obviously such aspect of the matter has to be addressed by the Government of Sindh along with the Mayor, City of Karachi to ensure that all these places and their inhabitants are appropriately located in a descent manner as is done in other countries. We do not expect any sort of a miracle in undertaking all such activity but at least some modest basic steps should immediately be taken to avoid massive collapse of the city. It is unfortunate that this city was the capital of Pakistan at one time and was a jewel of Pakistan now we do not know what to call this City. It is no more a city of lights which is being portrayed by the city administration nor is this the city of gardens. There are no trees, no greenery, no parks, no playgrounds, no roads, no hospitals, no universities, no schools, no colleges except those which were made by the government somewhere about forty years back. No water, no sewerage, no light, no transport, no public toilets, no parking space, no safe and secure and decent recreation and shopping areas. There is on all road kacha or pacca dirt filth heaps of garbage, sewerage water defaced walls incomplete and unpainted ghostly haunted structures, ruined buildings in state of imminent collapse, stray menace, no fumigation of the city to rid itself from

dangerous life threatening germs and mosquitoes. Graveyards space have become scares. Karachi has no semblance of a city rather it looks like a big chunk of a slum. We therefore expect that the Chief Minister of the Province of Sindh, do sit with all the agencies of the city of Karachi and also the Mayor of Karachi to resolve these and other grave issues facing the city and such be done with absolute promptness for that the situation is worsening day by day. The D.G. KDA unfortunately is not aware much about his own work and thus has not been able to give any assistance to the Court to various questions asked to him.

4. The Commissioner, KMC has complained that most of the footpaths of the roads in the City of Karachi are occupied by the Police and Rangers by making construction on them. Let the I.G. Police so also the D.G. Rangers appear before the Court along with their respective reports on the next date of hearing ensuring that footpaths of roads are not used for any sort of construction. The Commissioner, Karachi has also raised the issue before the Court that footpath around Metropole Hotel including the Village restaurant have been occupied by the Village restaurant and other occupants and that in respect of such occupation of footpath some order has been passed by the High Court. With due difference to the orders that may have been passed by the High Court we may note that no footpath can be occupied by any entity including entities working for social purposes and all these occupations are to be removed. All

occupations of the footpath and open land in front of Agha Khan Hospital, Jinah Hospital, Civil Hospital, Abbasi Shaheed Hospital, Services Hospital and SIUT Hospital should be ensured to be cleared and the city should be made walkable in that pedestrian rights have to be protected. The city Government shall ensure that proper bridges for pedestrians are constructed all over the city of Karachi for the safe crossing of the roads. Similarly roads signs including zebra crossing, roads lines, road furniture and all other road requirements are met in accordance with law and the standard of requirements. The open spaces and service streets and roads occupied by the commercial organization, shops, hotels shall be removed and restored their use. The Chief Minister Sindh shall implement this order and report compliance. In the master plan of the city of Karachi there is a provision for 62 acres for Kidney Hill Park adjacent to Shaheed Millat Road and it has been informed to the Court that such Kidney Hill Park has almost totally been encroached and construction of houses, shops and multi storied buildings have been made in connivance with the relevant departments and their officials and fake, false and falsified allotment and illegal lease documents have been issued. It is further informed that on the basis of such fake, false and falsified allotment and lease documents people have approached the High Court who has granted stay to them of not removing them from their occupation or construction. We are cognizant



that in such matters lot of frivolous litigation is pending before the High Court and incidentally the High Court has also granted interim relief in such cases. However, while we are dealing with the case under Article 184(3) of the Constitution, we may note that this Court is not bound by any of the orders passed by the High Court and in case we find that any illegality has been committed and such illegality come within the provision of the Article of the Constitution, noted above, this Court shall strike down any of the order and terminate the proceedings pending before the High Court. Before we undertake this exercise, we consider it appropriate that all parties are put on notice and in this regard the occupants of the Kidney Hill Park be informed through publication. The Commissioner, KMC shall examine each and every case of allotment and lease of the land of Kidney Hill Park and on such perusal, he shall issue notices to all illegal allottees/lessees for removal of their respective houses and all constructions whatsoever and restore the Kidney Hill Park of 62 acres as a park. Similarly, the Commissioner shall ensure that this park is developed on the modern lines for providing amenity to the people of Karachi. The issue has also been raised about the Hill Park in the City of Karachi and it has been informed that the very land of Hill Park has been fraudulently allotted, leased and construction on such fraudulent allotment and lease has been made and such has been done with the connivance of Pakistan Employees

Cooperative Housing Society. The Commissioner, KMC shall examine all record pertaining to the Hill Park and its land and ensure that the whole land of the Hill Park is restored for park purposes and no part of it is allowed to be occupied by any person and if any illegal fraudulent allotment and lease is found, he shall immediately take action against such allottee/lessee and ensure its removal from such occupation including the construction that may have been made.

5. It is informed by the Mayor, City of Karachi that a commercial building in the middle of Bagh Ibne Qasim has been demolished pursuant to the orders of this Court but the debris of such building is not being allowed to be removed for that the High Court has passed a *status-quo* order in a case filed by the builder for the purpose that the builder himself wants to take away the debris including the iron bars of the said building. Once the building has been demolished under the order of this Court, the obtaining of *status-quo* order appears to be a futile exercise as it is likely to cause nuisance in the park for that the park cannot be used as a park. In the circumstances, the party who has obtained the stay order from the High Court, be issued notice for his appearance before this Court on the next date which shall be during next session.

6. One Company known as Karachi Infrastructure Development Company Limited (KIDCL) has been established by the Federal Government for execution of the project of Green

Line in Karachi. Development of infrastructure in the City of Karachi is a basic job of local government of the City and it is not known as to how and for what purpose such company has been incorporated for that it is stated by the Mayor, City of Karachi that he is totally unaware of as to what this company is doing in the City of Karachi except, he says, road work is being carried out by them which is not approved by the City District Government and it takes no responsibility for such construction. It is stated by the Secretary, KIDCL who is present before the Court, that it has got right of way for the construction of this Green Line approved from the City District Government, Karachi. We find that the planning, development and maintenance of inter district roads, bridges, street lights and storm water drains and so also the traffic engineering are the functions of the City Government in terms of Schedule II to the Sindh Local Government Act, 2013. It is stated candidly before us that no approval of the City Government has been obtained for planning, development and maintenance of the Green Line nor any traffic engineering aspect of it has been examined and approved by the City Government. This seems to be a serious issue which need to be addressed by the relevant parties in order to ensure that whatever work is done in the city of Karachi is in accordance with law and not against the mandate of the law for that the work done against the mandate is liable to have serious effects and consequences. The

School

D.G. CAA was put on notice to appear before the Court today but he has not appeared rather Mr. Khalid Saleem has appeared who says that he is a law officer of the CAA. It is informed by the Commissioner, Karachi that piece of land adjacent to Karachi Grammar School in Kehkashan Clifton was allotted to the CAA by the Government of Pakistan for developing of a sports complex but such land is stated to have been gifted by the CAA to the Jesus and Mary School. Jesus and Mary is said to be a private School and is doing commercial business of education on charging of fee from its students and it is not understandable as to how CAA who was given this land as a trust for making a sport complex has gifted it to the School. Whether the CAA Authority itself possessed such authority of gifting of land meant for CAA allotted for its own purposes to be gifted to private institution for commercial exploitation. The D.G. CAA shall personally submit a report in this regard and shall also appear before the Court on the next date of hearing for taking of further action in the matter. As regards the Hayat Regency Hotel it is stated by the Commissioner, Karachi that this property which belonged to the railway seems to have been sold to one company by the name of AKD. It is informed that they are going to use this premises for the purpose of commodity exchange. Whether the building which is standing there in incomplete condition for almost like 40 years is in a state that it can be used for the purpose as stated, the

Commissioner Karachi will ensure that a proper opinion of building experts including engineers be obtained to show whether the building at the site is at all sustainable to stand and can be used. The engineers of NED University so also of Pakistan Engineering Council be involved in this project and a fair and independent opinion in this regard be obtained for that if the building is not habitable then it should be not allowed to be habited for that the life of the people will be in serious danger.

7. The Sea Breeze Tower is still standing on M.A. Jinnah Road. It had already been declared dangerous building and its demolition has also been ordered but for years together the building has not been demolished. The Director, Cantonments Land shall ensure that the building is demolished so that valuable lives of the people are not lost in case the building collapses any time. A report in this regard will be made available by the Director, Cantonments/Military Lands to this Court on the next date of hearing.

8. The Commissioner, Karachi states that pursuant to the orders passed by this Court on 22.01.2019 and 24.01.2019 the control of YMCA ground was taken over and all construction on it was removed including that of marriage halls and holding of marriage functions in the said premises were totally stopped. The ground was being used for playing hockey by the hockey players and such was going on and recently it has been

informed that Nazir of the High Court has started interfering in the affairs of the ground of YMCA by not allowing the hockey players to enter and play hockey on it. The Nazir is present in Court. He states that no such obstruction has been created by him and that he has nothing to do with the YMCA ground which is the property of the YMCA and being look after by the Commissioner, Karachi to ensure that it is used for the purpose it is meant under the Constitution of the YMCA and not otherwise. We may note that in no circumstances such playground shall be used for commercial exploitation and it will be used for the betterment and development of the people of Karachi. The Principal of YMCA School states that the playground is still occupied by some of the purported tenants. We have already ordered the Commissioner Karachi to ensure that the playground is totally made free from all sort of construction and occupation and exploitation for commercial purposes. The Commissioner, Karachi shall ensure that all construction and occupation shall be removed from the YMCA ground without fail and such will be done within a period of two days. No one has the authority to occupy the playground and it is to be used for the purposes of playground and nothing else.

9. The Secretary, Muslim Gymkhana is present and states that pursuant to the orders of this Court the boundary wall of the club shall be removed and in its place iron grill fencing will

... this will be done without any delay. We expect

that this work will be done by the Gymkhana within a period of three months. He states that no marriage activity is going in the Muslim Gymkhana anymore and it shall not be used for marriage purposes.

10. A report be filed by the Chief Secretary, Commissioner, Karachi, Commissioner, KMC, DG KDA and all other civic agencies which include DG Layari Development Authority and DG Malir Development Authority regarding removal of encroachments from the government lands, parks, playgrounds and all other amenity lands. A comprehensive report regarding such removal of encroachment be filed with up to date data supported by google satellite map. The D.G. Sindh Building Control Authority states that some illegal buildings have been removed/demolished and that further work of compliance of this Court's orders is going on and more buildings are going to be demolished and he seeks time for doing so. A preliminary report has been prepared by the D.G. which is kept on the file to be considered on the next date of hearing. The D.G. is directed to ensure that all illegal constructions be removed. However, it is noted that if the building is residential accommodating a large number of people in it with families coordinated steps will be taken to ensure the rehabilitation of those people. The illegal building shall in any case be removed and demolished. In this respect the D.G. Sindh Building Control Authority has also been asked to look into the two buildings which have been

constructed on the Boatbasin land just opposite to Bar B.Q. Tonight Restaurant. A building has also been constructed on the corner of Shahra-e-Faisal and Shahra-e-Quaideen towards Sindh Muslim Society. This building apparently seems to have been constructed illegally and on government land. DG SBICA shall also examine the validity of this construction and if found illegal will take steps immediately for their demolition. Similarly all other buildings which are illegally constructed shall also meet the same fate. Horrendous construction is going on in the erstwhile P&T Colony. Such colony comprises of government quarters in which staff of P&T was living. Now it seems that each of the quarter has been turned into multi storied building with total slum look and buildings whether they are structurally capable of being occupied there is no measure of surety about it for that no approval for the construction of such buildings appears to have been obtained. Similar buildings have been constructed in Neelam Colony and Punjab Colony and so also in Dehli Colony. The Cantonment Board shall examine the legal aspect of all such buildings whether such are permissible in law and file his report stating measures to be adopted for allowing only legal and permissible buildings. In any case P&T colony which is government land on which government quarters existed where multistoried buildings have been constructed are apparently illegal constructions and are liable to be removed.



An official of PIA named above has appeared and has made a categorical statement that marriage hall on the land of planetarium shall immediately be demolished and the planetarium revived. The CEO of the PIA is directed to ensure that compliance of order is made in that all lands allotted to PIA for its own use is not exploited commercially and in this regard he shall submit a report to the Court on next date of hearing to be fixed in the next session giving full details about the land allotted to the PIA.

Order dated 9/5/201

None has appeared on behalf of the KPT although notice has been served upon them for today's date. Chairman KPT is directed to be present in court on next date with report signed by him that all port lands are used for port purposes and in accordance of KPT Act and no land whatsoever of the port is either sold/transferred, leased, allotted to any person or its employee and whatever allotment, lease or transfer has taken place to immediately cancel and revert back the same to the port..

The land on to both sides of Mai Kolachi Road was full of mangroves at one time with passage of sea water, now there is barren land and passage of sea water has been blocked. The Chairman shall ensure that plantation of mangroves is made on both sides of Mai Kolachi Road and flow of sea water is restored

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Kolachi

the next date. The Administrator, DHA shall look in the open plots of land surrounded by the broken boundary walls just on the left hand side of Kala pull. A one big plot is occupied by Juggies and it is not known as who and on what basis the DHA is allowing the occupation of this land by Juggi dwellers. In the master plan of DHA this land is shown to be open land and is meant to remain open and thus the Administrator DHA has to look into this serious issue of use of its land by the encroachers which has to be cleared and made available for use of general public and residents of DHA. Further a piece of land with boundary wall adjacent to National Medical Center is also being misused in that it has to remain open but it seems that some sort of parking place has been made in it and seems to be exploited. The Administrator should also look into this land and ensure that it is cleared and opened up for use of public and residents of DHA. A partial encroachment in front of Tooba Mosque has been removed while there is a big chunk of land surrounded by the boundary wall just in front of Tooba Mosque and it is being used for parking and unlawful exploitation. This land also needs to be cleared and applied for enjoyment of general public and residents of DHA. The Administrator to submit report regarding above aspects on the next date of hearing, which will be in the next session.

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Crl.M.A. No.26-K/2019: A private and individual issue has been raised in this application which cannot be entertained by this Court under Article 184(3) of the Constitution. This application is, therefore, dismissed and the applicant may avail the remedy available to her under the law.

Sd/= Gulzar Ahmed, J

Sd/= Mazhar Alam Khan Miankhel, J



*Mazhar Alam Khan*  
14/5/2019

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Karachi.

*ent p.9/2019*

Case No .....  
Date of presentation ..... 30-5-2019  
No. of pages ..... 72  
No. of entries ..... 72  
Receipt No. 4466  
Copy No. 4466  
Date of issue ..... 1-6-2019  
Date of receipt ..... 3-6-2019  
Witnessed by M.S. Arif Chh.