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Murtaza Wahab, Administrator
Azra Muqem, Legal Advisor
Afzal Zaidi, M/C
Azhar Muqem, Legal Advisor

Cantonments : Adil Rafi, Director,
Military Land & Cantonment, Karachi
M. Saleem Hassan,
CEO, Clifton Cantonment
M. Farque,
Military Estate Officer, Karachi
Omer Masoom Wazir, CEO,
Korangi Cantonment
Barrister M. Omer Riaz, ASC
on behalf of Cantonment Board
Rana Khawar Iftikhar, CEO, Faisal
Qazi Rizwan Ahmed,
CEO, Karachi, Cantonment

Date of Hearing : 24.11.2021

ORDER

GULZAR AHMED, CJ.-

Nasla Tower

The Commissioner, Karachi has submitted a report regarding demolition of Nasla Tower. This report is altogether unsatisfactory and is rejected. The Commissioner, Karachi has been directed to immediately commence the demolition work of this building and achieve the total demolition thereof and clearance of *malba* as soon as possible. The Court had directed the Commissioner, Karachi to demolish the Nasla Tower expeditiously and submit report in the next session. Thereafter, vide order dated 25.10.2021 the Court directed the Commissioner, Karachi to complete the demolition of building within one week's time from 27.10.2021, but the Commissioner, Karachi, apparently, has not complied with the said orders, rather has taken a stance to defy the Court's orders. The Court shall take action against the Commissioner, Karachi for defiance of the Court's orders. The Commissioner, Karachi shall ensure that compliance of the Court's orders is made.

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Supreme Court of Pakistan
Karachi

2. With regard to Tejori Heights, which was to be demolished pursuant to the orders of this Court dated 29.10.2021. The Commissioner, Karachi has stated that such building has been demolished but no report has been submitted by the Commissioner, Karachi nor the requisite record pertaining to taking away of the files by the Builder from its office premises located at Tejori Heights, has been filed before the Court. The Commissioner, Karachi shall submit the report and shall also be present in Court on 26.11.2021. The photographs showing that Tejori Heights has been demolished shall be attached by the Commissioner, Karachi.

Report No. 103-K/2021.

3. Civil Aviation Authority was allotted State's land in District Malir, Karachi measuring 209.2 acres in Deh Mehran and also a land of 80.6 acres, privately purchased by Civil Aviation Authority in NC-153 vide Secretary Land Utilization Department's Letter No. LU-II/3-4079-G(K)/1/2960 dated 30.12.1990 and as per Revenue Demarcation Map 1983, it seems that out of the land of 80.6 acres, 4 Survey Numbers i.e. 526, 527, 575 & 576 in NC-153 have been created through fake entries in the revenue record and shown to have been allotted by the Revenue Department to fake persons, who in turn are purported to have given power of attorneys to some persons who are in occupation of this land. FIA has conducted enquiry and two FIRs have been registered by them.

4. Mr. Shakeel Ahmed Durrani, Additional Director General, FIA South, Karachi states that Civil Aviation Authority's land has been encroached upon by making fake, false and fabricated entries in the revenue record and 4 persons have been arrested and the allotment of this land is shown in the name of one, Nabi Bux who does not exist.

5. We note that subsequent Deh maps have been prepared with demarcation by the Revenue Department and such appears to

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(Signature)
Judicial Assistant
Supreme Court of Pakistan
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have been done only to give strength to the illegal occupants of land of Civil Aviation Authority. The ADG, FIA is directed to visit the land and take measures for retrieving it from the occupants. He shall ensure that the land is totally cleared from all encroachments and delivered to Civil Aviation Authority. A report in this respect be submitted by the ADG, FIA tomorrow i.e. 25.11.2021.

Civil Aviation Authority Club.

6. It is informed by Director General, Civil Aviation Authority that a club is being run on the Civil Aviation Authority's land at Karachi in which there is also private memberships those are of the persons other than employee of Civil Aviation Authority. The DG, Civil Aviation Authority was asked as to how such a club could be allowed to run on the land of Civil Aviation Authority, which is meant only to be used by the Civil Aviation Authority for its activities. The DG, Civil Aviation states that he will ensure that the club being run on the land of Civil Aviation Authority at Karachi is immediately discontinued and same is restored to be used for the purpose of Civil Aviation Authority. Such be done by the DG, Civil Aviation Authority within a period on one week.

Report No.105-K of 2021

7. Mrs. Amber Alibhai, General Secretary, M/s. Shehri-CBE has submitted the instant report in respect of 24 pieces of land which are meant for parks and playgrounds in different areas of Karachi on which proper developed parks/playgrounds are not functional and it is also complained that some areas of the land meant for parks/playgrounds are encroached upon. A copy of this report has been handed over to the Administrator, KMC who seeks time to go through the same and take immediate measures for restoring the land mentioned in the report to the parks and playgrounds with proper facilities for all walks of life, for all

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will be properly regulated but being public parks/playgrounds no fee shall be charged from anyone entering in these parks/playgrounds. The purported membership fee being charged for use of KMC Roller Skating Rings on the Kashmir Road, Karachi should immediately be discontinued and the public should be allowed to use whole of the KMC park located at Kashmir Road, Karachi without any hindrance, except that unsocial element should be checked and are not to be allowed to enter in the park and playground. All the parks and playgrounds, so mentioned in the report, should be properly developed and maintained and their condition should constantly be monitored by employing people who are familiar with the maintenance of parks and playgrounds. Proper furniture and lightening should be provided in these parks/playgrounds. Let the Administrator, KMC, Karachi shall file his reply to the report and such should be done within a period of two weeks.

CMAs No.522-K and 826-K of 2020

8. Notice be issued to the Chairman and the Secretary, Karachi Cooperative Housing Societies Union so also to the Secretary, Ministry of Housing and Works, Government of Pakistan, Islamabad, so also to the Administrator, KMC, Karachi to make response to the application, where it is claimed that plots No.SNP A-21-B and SNP A-23, Blocks No.7 and 8, Karachi Cooperative Housing Societies Union, Main Tipu Sultan Road, off Bahra-e-Faisal, Karachi, in the original layout plan of the Union were shown as amenity plots meant for parks and playgrounds but are said to have been allotted/leased out by the Union to the private persons for their commercial exploitation. It is also stated that both these plots of land are being used for Marriage Hall purposes and the photographs of such have been attached with the application. Further, these plots are also being used as parking space by the officials of the Union and a private school is said to be running on one of these plots.

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9. Let the Chairman and the Secretary of the Union appear before the Court on the next date of hearing. The Secretary, Ministry of House and Work, Government of Pakistan, Islamabad, shall also be present before the Court with his report as to how the amenity plots were allowed to be allotted and leased out to the private persons for their commercial exploitation.

10. Notices be also issued to the owners/occupiers of these two plots of land for appearing before the Court on the next date of hearing. Notice on the owners/occupiers so also the Chairman and Secretary of the said Union will be served through the SHO of concerned Police Station.

C.M.No.826-K of 2020/ Al-Bari Towers

11. Plots SNP A-70 and 72, which are meant for parks/playgrounds on which huge building by the name of Al-Bari Towers is constructed and it is contended by the learned counsel appearing for the applicant that despite orders of the Court the purported builders/owners of the building has allowed some shops to be opened in the building. Notice be served on the purported owners as well as the Chairman/Secretary of the Karachi Cooperative Housing Societies Union through the SHO of concerned Police Station for the day after tomorrow i.e. 26.11.2021 as despite notice no one has appeared.

CM Appeal No.16 of 2021

12. Notice of CM Appeal No.16 of 2021 in CMA No.Nil of 2021 be issued to the Administrator, KMC so also the Director General, Sindh Building Control Authority and also to the Chairman and the Secretary of the Pakistan Employees Cooperative Housing Society (PECHS). We have noted that no one makes appearance from the side of PECHS. Let the SHO of concerned Police Station, ensure service of notice to the Chairman and the Secretary of the PECHS for their appearance in the

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Court for the day after tomorrow i.e. 26.11.2021. The Director General, Sindh Building Control Authority, shall also appear in the Court along with his report. The Administrator, KMC shall also file his report. Adjourned for 26.11.2021.

Gutter Baghicha

13. It is admitted by the Administrator, KMC that land of 200 acres of Gutter Baghicha has been allotted to KMC Cooperative Housing Society in the year 1993. It is also admitted that regular allotment of plots has been made to the officials of the KMC but the possession has not been given to any of the officials so far. Let the allotment letters with all requisite documents be filed by the Administrator, KMC before the Court till day after tomorrow i.e. 26.11.2021.

14. The Guttar Baghicha land is an amenity plot meant for making of park and such land exists from the pre-partition time specifically for the purpose of making of park. It is very unfortunate that KMC who was required to build a park on this land has actually arrogated the land to itself for making of housing society for its employees which apparent from its face cannot be allowed. The purported KMC Cooperative Housing Society on the land of Gutter Baghicha is an illegal allotment/transfer of land by KMC to the Society and the same is liable to be cancelled and resumed by KMC for making it a public park. Let notice be issued to the Chairman and the Secretary of the KMC Cooperative Housing Society for appearance before the Court on 26.11.2021.

15. The Administrator, KMC is also put on notice that KMC Cooperative Housing Society has also been allotted land in Bath Island, Karachi where a housing project has been made in the name of Gulshan-e-Faisal Cooperative Housing Society. The Administrator, KMC will seek

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proper information regarding such society also and put up a report before this Court on 26.11.2021.

16. While hearing the matter, copies of certain fake challans have been placed before us, which show that in pursuance of Ordinance No. III of 2001 differential amounts of Rs.592,000/- in respect of land measuring 02.20 acres situated in Deh Joreji, NC No.340, District Malir, Karachi was leased out for 99 years in favour of Nisar Ahmed son of Allah Bachio at the rate of Rs.5,000/- per acre. Similar allotments are also mentioned in the bunch of the challans.

17. Learned Advocate General, Sindh has been put on notice and asked to show how these challans, which show deposit of amounts in the year 2020-2021, could be justified by the Sindh Board of Revenue, more particularly, where this Court in order dated 28.11.2012 passed in SMC No.16 of 2011 and subsequent order dated 07.08.2019 passed in CMA No.3225 of 2013 etc., has pointed out that apparently no private sale of Government land is permissible in law, except for public purposes, whereas these challans show that the said allotments have not been made for public purposes, rather the private persons for other purposes such as housing, commercial and industrial. Copies of these challans be handed over to the learned Advocate General, Sindh.

Report No. 102-K/2021

18. As regards playground on Plot No.ST-67 Sector 5-F, North Karachi Township, Karachi, the DG, KDA has submitted the instant report, in which it is stated that the playground, where garbage was being dumped and sewage water was allowed to run on it and encroachments were made, has been cleared from all garbage, sewage water and encroachments. It is further stated that the construction of boundary wall with proper iron grills, work for its beautification and plantation and laying of a jogging track is being under process and it is

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stated by the DG, KDA that such work will be done as soon as possible. We expect that the DG, KDA shall facilitate the early completion of the work, not later than four months from today.

19. The DG, KDA states that he is taking further steps for retrieving and restoring all parks and playgrounds within the jurisdiction of KDA and in this respect the Director Planning and Urban Design (DPUD) Department has also been transferred to the KDA and in this respect the KDA is taking steps for proper planning and zoning or other related activities and all buildings and encroachments on public land, open land, Nala land, Malir River Belt land and in particular, building around Jam Sadiq Ali Bridge, the action will be taken against them and those illegal buildings and encroachments shall be removed and same shall be used for the amenity purposes.

ST-1 in Sector No.36-A, Korangi-5

20. It is also complained that large number of lands meant for parks/playgrounds in the area of Korangi has also been encroached upon and in some of the lands, construction work has also been started, particularly, on ST-1 in Sector No.36-A, Korangi-5, Karachi. The DG, KDA states that he is in knowledge of such activity being conducted by some builders on the ST plot and he will ensure that not only the construction activities be stopped but also all constructions on the land is removed and the plot is restored for parks/playgrounds.

21. The Administrator, KMC has also shown his interest in the subject of parks/playgrounds and other open spaces and states that he will ensure that all parks/playgrounds within the limits of KMC are used for the very purpose of parks/playgrounds and all illegal activities on such land is immediately removed and the parks/playgrounds are properly maintained for use by the public, including the children.

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Supreme Court of Pakistan
Karachi

22. He has also stated that he will look into the matter of Jheel Park and restoration of the two lakes in it and also two other lakes, one on Ghulam Hussain Road, on which building appears to have been constructed and other, just opposite Jheel Park, on which a school is said to have been constructed. These four lakes were ideal places in Karachi for visitors and so also for birds' sanctuary.

23. We are of the view that the KMC being established *inter alia* for maintenance of public places, all the more parks/playgrounds, ought to have maintained the four lakes and in case of depletion of water in them, measures ought to have been taken to restore subject depletion of water and not to fill them up and used or allotted for commercial exploitation. The Administrator, KMC shall submit a report in this regard also before the Court.

CMA No.1087-K/2021

24. The above CMA is regarding Askari Park on the land of Old Sabzimandi, Karachi. The Administrator, KMC states that he has received notice of the application and will submit the reply. Let such be done by Friday falling i.e. 26.11.2021.

25. Notice be repeated to the Commander, Engineerings-5, Corps, Karachi for the next date of hearing.

26. Notice be also issued to the learned Attorney General for Pakistan and also to the learned Advocate General, Sindh as to how the park's land is being used for commercial activities.

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Cantonment lands

27. It has been pointed out that the lands which were meant for Cantonment purposes, i.e., for Army, Navy and Air Force are progressively being used, rather being allotted, transferred and leased out by the Cantonment Boards to the Army personnel for their own

other related things. The Cantonments' lands, which were allotted or leased by the Federal Government or the Sindh Government for cantonment purposes were meant to be used only for cantonment as strategic land for defence purposes and its activities but the very nature of land and its title, apparently, cannot be changed and given that of a private status and the conversion of cantonment land into private land, seems contrary to the very mandate of the Cantonment Act, 1924 and the Land Administration Control Rules, 1937 and also is in violation of the Constitutional provision. If any law or rule is made contrary to such mandate, the same will be *ultra vires* the Act and the Constitution and therefore, this aspect needs to be heard and decided by this Court.

28. In the circumstances, notice be issued to the learned Attorney General for Pakistan so also the learned Advocate General, Sindh under Order XXVII-A of CPC.

29. Notice be also issued to the Director (Military Lands & Cantonments) Karachi Region as well as CEOs of all the Cantonments of Karachi Region.

30. Notice be also issued to the Secretary, Ministry of Defence for appearance before the Court for Friday i.e. 26.11.2021.

Sd/-Gulzar Ahmed, CJ
Sd/-Ijaz ul Ahsan, J
Sd/-Qazi Muhammad Amin Ahmed, J

CERTIFIED TO BE TRUE COPY


Judicial Assistant
Supreme Court of Pakistan
Karachi



Bench-I
Karachi

24.11.2021

'APPROVED FOR REPORTING'

Rabbani/*