

recourse to the Faran Education Society and may do so for the redressal of the grievance. As far as the Kidney Hill Park is concerned, the order cannot be reviewed. We may, however, clarify that whatever land of the Kidney Hill Park was occupied by the Foundation Public School, shall remain as land of the Park and will be used as a Park and nothing else. The civil review petition is, therefore, dismissed.

Green Line Project

6. As regards the Sindh Infrastructure Development Company Limited (**SIDCL**) is concerned, Mr. Bilal Ahmed, Chief Operating Officer, SIDCL, states that Green Line Project will be completed by the agency and made operational positively by June, 2021. He further states that all infrastructural equipment has imported and there is no impediment in making them operational on the Green Line Project. The Chief Operating Officer shall ensure that the commitment made by him before this Court is fully met and no further time will be granted by this Court in this regard. Further report be submitted by the SIDCL in a month's time.

Karachi Goan Association (KGA)

7. Notice in CMA No.281-K/2020.

Civil Aviation Authority

8. Mr. Khaqan Murtaza, Director General (**DG**), Civil Aviation Authority (**CAA**) states that 8 acres of land of CAA in Clifton has been leveled and plantation work has already commenced and that further plantation will be made on this land to convert it into a beautiful park. He states that CAA has a plan to inaugurate this park on 14.08.2021. A further report in this regard be filed within one month's time.

9. As regards the establishment of a park on the land of CAA at Jinnah International Airport, the DG, CAA states that work on it has

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- For KWSB : Mr. Asad Ullah Khan, Managing Director
- For CAA : Mr. Khaqan Murtaza, Director General
Mr. Nadir Dar, Deputy Director General
Muhammad Bhatti, Additional Director
- For SBICA : Syed Jamil Ahmed, ASC
Mr. Shamsuddin Soomro, Director General
Mr. Shahid Jameel ud Din, Principal Law Officer
- For NESPAK : Dr. Tahir Masood, Director General
- For KPT : Mr. Yawar Farooqi, ASC
Mr. Nadir Mumtaz Warraich, Chairman, KPT
- For Estate Office Karachi : Mr. Abdul Azeem Jatoi, Deputy Director
- For the NAB : Syed Amjad Ali Shah, DPG
Mr. Abdul Sattar Awan, ADPG
- For Sindh High Court : Mr. Karamuddin Junejo, Nazir
- For NDMA : Nasrullah Barohi, Assistant Director
- For Military Land and Cantonments : Adil Rafi Siddiqui, Director
Rana Khawar Iftikhar, CEO
Saleem Hassan Watto, CEO
Hyder Ali Sial, CEO
Umar Mehboob, CEO
M. Farooq, MEO
Qazi Rizwan, CEO

Date of Hearing : 29.12.2020

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ORDER

GULZAR AHMED, C.J.-

CMA No.391-K of 2020 IN CONST. P. No.9 OF 2010

KIDNEY HILL LAND

29.12.2020
order

The Chief Minister, Government of Sindh has appeared in Court. He requests for time for filing of a report in compliance of this

Court's order dated 09.05.2019. He is allowed one month's time to prepare the report and submit the same in his own hand.

Kidney Hill Park

2. As regards the Kidney Hill Park, the Commissioner, Karachi so also the Commissioner, Karachi Municipal Corporation (KMC) has stated that all encroachments and illegal constructions from it have been demolished. The Commissioner, KMC states that there may be some *Malba* and Debris of removed structure therein and he will ensure that the same is taken away from the Kidney Hill Park and the land of the Park is properly restored to be used as a Park.

3. The Commissioner, KMC has stated that about 80,000 trees have been planted in the Kidney Hill Park and more plantations are being made. He states that the Kidney Hill Park will be completed by 30.06.2021 and will be opened to the public.

4. It is informed to the Court by the learned counsel for the Commissioner, KMC that out of 62 acres of the Kidney Hill Park's land, 7.5 acres is still occupied, even illegal houses are also constructed, which have not been removed as yet. In the circumstances, we direct the Commissioner, KMC to get this 7.5 acres of land of the Kidney Hill Park vacated from the illegal occupants and demolish all constructions, restore the land of 7.5 acres to the Kidney Hill Park, and thereafter, immediately start plantation of trees to convert it into a garden. The

report regarding such action taken by the Commissioner, KMC will be

filed before this Court by tomorrow.

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CRP No.18-K/2020

5. By this review application, review has been sought of order dated 10.08.2020. We have heard the learned counsel for the review petitioner. The petitioner, as it appears from the said order, has



already been taken in hand and the process of plantation of trees and converting it into a park will commence and the same will be accomplished in a shortest possible time. We expect that CAA will complete this exercise by August, 2021 and give report in this regard to the Court within one month's time.

10. We may note that the Director General, CAA has already committed that all open land adjacent to Jinnah International Airport will be converted into a park and plantation of trees will be done on it. Let compliance of such be done.

Hyatt Regency Hotel

11. The Secretary, Pakistan Railways states that under the law Pakistan Railways has no power to sell or transfer its land and if at all, any Railways' land has to be leased out, it cannot be for more than five years. He has informed that matter regarding the Railways' land occupied by the so called Hyatt Regency Hotel is going to be put up before the Cabinet for restoring it to the Pakistan Railways for use by the Railways for its own operational purposes and a report in this regard shall be submitted before the Court within a period of one month.

12. As regards the other encroachments on the Railways' land, the Divisional Superintendent, Railways states that considerable efforts

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have been made by the Pakistan Railways to remove such encroachments but to the extent of some land of Karachi Circular Railway (KCR) not much success has been achieved and that whenever the Pakistan Railways' authorities approach the encroached area, they are faced with resistance from the encroachers in which not only Railways' employees but also Railway Police personnel have got injured. The Secretary, Pakistan Railways so also the Divisional Superintendent,

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respect of land of Survey No.190 and Mr. Raza Rabbani admits that Tejori Height/Tower does not claim ownership of land in Survey No.190. The very documents on the basis of which Tejori Height/Tower claims right in the land relates to Survey No.190, whereas, the actual construction of Tejori Height/Tower is being raised, is stated to be in land being Survey No.653, which is part and parcel of Survey No.188. Thus, there appears to be serious anomaly in the claim of Tejori Height/Tower, in that, in documents, it claims ownership in Survey No.190, however, actual building is being raised as shown in the map is part of Survey No.188. It is however, stated by Mr. Raza Rabbani, learned ASC that some rectification deed has been made, which is available at page-376 of said CMA, which seems to be quite quizzical.

20. Be that as it may, as *prima facie*, there is patent anomaly in the case of Tejori Height/Tower thus, apparently, Tejori Height/Tower having no right, title or interest in the land in question and all construction on the said land, shall immediately cease and stopped altogether and no third party interest shall be created. The Commissioner, Karachi is directed to take over the possession of the project, namely, Tejori Height/Tower and not to allow any person to enter in it until further orders of this Court.

Adjourned for tomorrow i.e. 30.12.2020 for hearing of remaining matters.

Sd/- Gulzar Ahmed, CJ
 Sd/- Sajjad Ali Shah, J.
 Sd/- Qazi Muhammad Amin Ahmed, J.



CERTIFIED TO BE TRUE COPY
 4/1/21
 Senior Court Associate
 Supreme Court of Pakistan
 Karachi.

Bench-I
 Karachi
 29.12.2020
 NOT APPROVED FOR REPORTING
 Rabbani/

[Handwritten signature]

Case No. Const.P 9/250
 Date of presentation 7-1-2021
 No. of words 6000
 No. of Folios 60
 Requisition Fee Rs. 5.00
 Copying Fee in 37.32
 Court Fee stamps 42.32
 Date of completion of copy 7-1-2021
 Date of delivery of copy 9-1-2021

Railways are directed to ensure that all encroachments on the Railways' land are removed and the Railways' land is restored for Railways' operational purposes.

13. The Secretary, Pakistan Railways states that ML-1 Project is going to be started by the Pakistan Railways and for such project, considerable land will be required by the Pakistan Railways. Let the Pakistan Railways take measures for retrieval of its land and in this regard use the assistance of the police force and the Pakistan Rangers. The Secretary, Pakistan Railways so also the Divisional Superintendent, Railways shall give further report to the Court regarding the action taken by them in this regard.

14. The Director General, Pakistan Rangers, Sindh shall provide all assistance to the Pakistan Railways for having its land recovered from the encroachers. The Inspector General of Police, Sindh shall also provide the appropriate police force for undertaking this exercise.

Karachi Circular Railway

15. It is stated that contract for making of underpasses for the operation of KCR has already been awarded by the Government of Sindh to the Frontier Works Organization (FWO) and FWO is stated to be in the process of undertaking the work under the contract. The Secretary, Pakistan Railways states that almost 70% work of KCR has been done and some portion is left on which the Pakistan Railways is working in coordination with the Government of Sindh for making the KCR operational as early as possible.

16. We may note that in our previous orders, we have already given timeline for completion of this work but have noted with concern that such timeline has not been met by the Pakistan Railways so also the Government of Sindh. We again emphasize the Secretary, Pakistan

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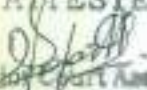
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Railways so also the Government of Sindh to ensure that the project of KCR be completed as per timeline given by this Court. The DG, FWO is directed to appear before the Court alongwith progress report on the work being undertaken by FWO on KCR Project. Such report be made available to the Court within a period of one month.

17. It is pointed out by Raja Qasit Nawaz, learned counsel for the Pakistan Railways that the Railway has been allotted a total of 370 acres and 15 *Ghuntas* of land for construction of new KCR as per Collector Karachi letter No. LA/956 dated 18.11.1959 and it was also notified by the Administrator of Karachi vide notification No.F.3(92)/59-Rev dated 17.11.1960 situated near Gillani Railway Station, Gulshan-e-Iqbal, Karachi East. This land, *inter alia*, comprised of Survey Nos.188 to 190 in Deh Ghujro, Karachi East. He contends that a portion of land from Survey No.188, which is almost beneath the Railway Tracks, shown in the map at page 543, is said to have been sold and as against such land a plot has been created in the very Survey No.188 by renumbering it as Survey No.653, upon which construction activity has been started in the name of Tejori Height/Tower.

18. Apparently, the claim of Tejori Height/Tower is based upon an irrevocable General Power of Attorney dated 03.12.2011, available at page-289 of CMA No.906/2020, which shows that power has been granted in respect of 5.17 acres of land in Survey No.190, Deh Ghujro, Gulshan-e-Iqbal, Karachi. Further, a sale deed dated 29.10.2015, available at page-337 of the same CMA, is also relied upon, which relates to the transaction in respect of land measuring 00-23 *Ghuntas* out of 05-17 acres from Survey No.190, Deh Ghujro, Tappo Gulshan-e-Iqbal, Taluka District Karachi East.

19. The two documents relied upon by Mr. Raza Rabbani, learned ASC, representing Tejori Height/Tower, apparently, are in

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