

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

CP No. D- 78 of 2025

[Mir Imran and others v. Province of Sindh & Others]

BEFORE:

MR. JUSTICE ADNAN-UL-KARIM MEMON

MR. JUSTICE RIAZAT ALI SAHAR

Mr. Muhammad Arshad S. Pathan, Advocate for Petitioners

Syed Shahzad Ali Shah, Advocate for respondent No.6 along with Sheraz Ali Leghari, Director, Park Hyderabad Municipal Corporation,

Mr. Rafiq Ahmed Dahri, Asstt: A.G.

Date of hearing:

& Decision:

16.12.2025

ORDER

ADNAN-UL-KARIM MEMON, J - The Petitioners, through the instant Petition, have prayed as under:

- a) To issue the writ declaring that the act of respondents No.5 to 7, especially the Mayor, H.M.C., and Municipal Committee Qasimabad and of their subordinates, upon illegal, unlawful act of dispossession, illegal possession and erection of banners and park over the Plots of petitioners bearing Plot No. A plot measuring 279.4 square yards and Plot No. B, measuring 390 square yards, situated at H.D.A Commercial Housing Scheme Qasimabad, Hyderabad, and the construction is illegal, unlawful, without legal, lawful authority over the private property.
- b) To declare that the official respondents No. 5 to 7 have no right, title or interest or power to take over the private property, viz. Plot No. A & B of petitioners in the manner under the garb of Park etc., that too without having any legal authority, and is illegal, unlawful, and unwarranted under law.
- c) To declare that the act of respondents is a collusive one, illegal, unlawful, an act of grabbing of private property by misuse of their designations, powers, and in collusion with the Police and ghunda element.
- d) To grant ad-interim injunction restraining the official respondents from their illegal, unlawful act of grabbing, illegal construction under the garb of the name of Park upon the plots of the petitioners and the road area being without legal, lawful authority and liable to be stopped and restrained. Further illegal, unlawful construction and its building material is liable to be removed from the site.
- e) To restrain the Police from their illegal act of harassing petitioners and providing illegal, unlawful protection at the site to the contractors under the illegal, unlawful instructions of official respondents, and

further restrain the Police from acting upon the illegal, unlawful directions and orders from official respondents.

- f) Any other relief which this Honourable Court deems fit and proper.
- g) Cost of the Petition.

2. The case of the petitioners is that they are legally and constitutionally entitled to the safeguards and guarantees enshrined under the Constitution. The land bearing Survey No.157, admeasuring 2-30 acres and Survey No.158/4 admeasuring 1-10 acres, total measuring 4-00 acres, situated in Deh Jamshoro, now Taluka Qasimabad, was owned and possessed by private persons who entered into a joint venture with the Hyderabad Development Authority (HDA) for the development of Commercial Housing Scheme. Pursuant thereto, the private owners executed registered sub-lease documents in favour of HDA vide R.D. No.4534, Book-I dated 14.11.1995, duly mutated in the Record of Rights. The commercial layout plan of said scheme was approved by HDA on 13.08.1991, consisting of commercial plots along with all mandatory amenities. It is urged that out of the said approved layout, Plot No. A measuring 279.4 square yards and Plot No. B, measuring 390 square yards, were initially allotted to Mahesh and Mrs. Nitrat Pasha, respectively, who subsequently sold the said plots to joint purchasers. Thereafter, through registered sale deeds, the shares devolved upon the petitioners, whereby petitioner No.3 holds 50% share and petitioners No.1 and 2 hold 25% shares each in both plots. The Directorate of Planning & Development Control, HDA, vide letter dated 23.10.2008, approved the amalgamation of Plots A & B into one plot measuring 669.4 square yards and also issued NOC for construction of a basement, plus ground, plus a five-story commercial building. It further averred that possession of the said plots was handed over by HDA to the original allottees and has lawfully remained with successive purchasers, including the petitioners. The plots were duly earmarked at the site as per the approved layout plan and were never disputed by any authority. Even the imposition of shifting charges by HESCO for relocation of an overhead H.T. line over the plot further establishes possession and ownership of the petitioners. However, in the last quarter of 2024, banners were illegally erected by the Mayor, Hyderabad Municipal Corporation (HMC), claiming the site as a public park. The petitioners were astonished as the land falls within the jurisdiction of Municipal Committee Qasimabad and forms part of a duly approved commercial scheme of HDA. Despite repeated visits to HMC and Municipal Committee Qasimabad, no lawful authority, sanction, tender, or work order could be produced. Contractors also failed to show any valid document authorizing construction. It is submitted that they stopped the illegal work and approached the police, but despite initial restraint, the police later acted in collusion with local administration and contractors, thereby facilitating illegal encroachment, dispossession, and construction over the petitioners' private commercial property. The actions of HMC, Municipal

Committee Qasimabad, and HDA officials are arbitrary, unlawful, and without jurisdiction, and amount to land grabbing under the garb of public purpose. It is added that they have exhausted all possible remedies and have been left with no efficacious alternative remedy. The matter involves no factual controversy, as the petitioners' title, possession and approvals are supported by valid, subsisting documents. Any document to the contrary would be fabricated and liable to legal action. Hence, the present constitutional petition has been filed seeking writs of mandamus and certiorari for the protection of petitioners' lawful rights, removal of illegal construction, and restraint against unlawful dispossession. They prayed to allow the petition.

3. Learned counsel for the respondents submitted that the suit property has been reserved and utilized for amenity purposes for last three decades. According to Tapedar, the land has historically been used as a filter plant, musafir khana, and kachra kundi for public benefit, and at present a boundary wall exists at the site where Hyderabad Municipal Corporation has stated constructing public park. The Supervising Tapedar, Taluka Qasimabad, reported that no scheme in the name of H.D.A. Commercial Housing Scheme is reflected in the revenue record of rights; that as per Entry No.1321 dated 28.11.2008 of VF-VII-B of Deh Jamshoro, Commercial Plot No.A admeasuring 279.4 square yards, situated in H.D.A. Commercial Housing Scheme, is entered in the name of Mr. Mahesh son of Teekam Mal, leased for a period of 89 years by the Additional Director, H.D.A., Ghulam Hussain, through registered lease deed No.2748 dated 01.09.2008; however, no survey numbers are mentioned in the said entry; that as per Entry No.8183 dated 18.02.2016 of VF-II of Deh Jamshoro, Commercial Plot No. A admeasuring 279.4 square yards, formed out of Survey Nos.204, 205, 206, 223, 224 and 225, situated in H.D.A. Commercial Housing Scheme, was transferred from Mr. Mahesh to Muhammad Ali Shah 0.25 paisa, Hajan Gaho 0.25 paisa, Mir Imran Talpur 0.25 paisa, Abdul Aziz (0.12.50 paisa) and Muhammad Hafeez Sarhandi 0.12.50 paisa. The Supervising Tapedar further submitted that the preceding entries do not mention any survey numbers, whereas this entry specifies certain survey numbers. Contrarily, the Tapedar of the beat further reported that as per revised layout plan of Commercial Housing Scheme and with the assistance of Deh Map, the survey numbers mentioned in Entry No.8183 are located near H.D.A. Water Lagoons in Deh Jamshoro, whereas Commercial Plot No.A is physically located approximately 2.5 kilometers away from the suit property. Regarding Plot No.B, the Supervising Tapedar also reported that as per Entry No.1320 dated 28.11.2008 of VF-VII-B of Deh Jamshoro, Commercial Plot No.B admeasuring 390 square yards, situated in H.D.A. Commercial Housing Scheme, is entered in the name of Mst. Nusrat Pasha wife of Arif Pasha, leased for 89 years by H.D.A. through the Additional Director, Ghulam Hussain, however, no survey numbers are mentioned in this entry either; that as per

Entry No.8211 dated 19.02.2016 of VF-II of Deh Jamshoro, Commercial Plot No.B admeasuring 390 square yards, formed out of Survey Nos.158, 159 and 160, was transferred from Mst. Nusrat Pasha to Muhammad Ali Shah, Hajan Gaho, Mir Imran, Abdul Aziz and Muhammad Hafeez. The Supervising Tapedar also submitted that the earlier entries do not reflect any survey numbers, while this entry specifies survey numbers. The Tapedar of beat further reported that although the petitioners claim Plot No.B to be situated on Survey No.157, no such survey number is reflected in the revenue record. The Supervising Tapedar further pointed out that there is a marked discrepancy in the survey numbers mentioned in entries No.8183 and 8211, as the former refers to Survey Nos.204, 205, 206, 223, 224 and 225, whereas the latter refers to Survey Nos.158, 159 and 160, which are located approximately 2.5 kilometers apart, making it improbable that both plots are situated together. Relevant revenue entries have been annexed with the reports. It is further submitted that the Tapedar of the beat had access only to the revised layout plan of the scheme and not the original layout plan, which, according to him needs to be obtained from HDA to verify whether the land in question was/is earmarked as amenity space. Lastly, they contended for dismissal of the petition.

4. It is an admitted position that vide order dated 16.01.2025 this Court directed the parties to maintain status quo with regard to suit property. The said order was passed to preserve the subject matter of the petition and to prevent any irreversible change till controversy is adjudicated. The filing of Contempt Application stems from the allegation that, despite the said order, construction activity was carried out at the site.

5. The alleged contemnors have taken plea that the land in question is amenity land and that construction of a public park is being carried out on the basis of reports furnished by the Supervising Tapedar, Taluka Qasimabad, and the Tapedar, Tapa Qasimabad. However, a careful examination of said reports reveals serious discrepancies and contradictions in the revenue record, particularly with regard to survey numbers, location of plots, and absence of original layout plans. The reports themselves concede that the original layout plan of H.D.A. Commercial Housing Scheme was not available and that reliance was placed only on revised layout plan, which by itself cannot conclusively determine title, possession, or nature of the land.

6. Prima facie the revenue entries relied upon by the alleged contemnors are inconsistent, as the survey numbers reflected in different entries pertain to locations situated several kilometers apart, making the respondents' claim that both plots fall on the same amenity land highly under cloud. Such disputed questions regarding identification, location, and classification of the land cannot be conclusively resolved on the basis of conflicting reports and, in any case, could not justify unilateral action during the subsistence of a clear status-quo order.

7. The law is well settled that once a Court directs maintenance of status quo, all parties are bound to strictly adhere to the order in its true letter and spirit, and no party is permitted to alter the physical status of the property on the pretext of administrative reports or assumed public purpose. Any act which tends to defeat or undermine the authority of Court amounts to interference with the administration of justice.

8. In the present case, the continuation of construction activity during the subsistence of status-quo order, regardless of the justification now offered, was/is wholly unjustified. At the same time, it is observed that the controversy involves disputed factual aspects relating to survey numbers, layout plans, and amenity reservation, which require proper adjudication after calling the original record from H.D.A. and other relevant authorities.

9. In view of the above facts and circumstances, this Court deems it appropriate to reiterate and strictly enforce the status-quo order dated 16.01.2025. All respondents, including H.M.C., Municipal Committee Qasimabad, H.D.A., contractors, are hereby restrained from carrying out any construction activity, encroachment, or interference in any manner whatsoever over the subject property till final determination of the main petition. The concerned authorities are further directed to place on record the original layout plan of H.D.A. Commercial Housing Scheme, along with complete revenue and lease record, within the stipulated time, to enable this Court to effectively adjudicate the matter.

10. As regards the contempt proceedings, while the conduct of respondents reflects disregard to the spirit of Court's order, this Court, in the interest of justice, refrains from awarding punitive punishment at this stage. The Contempt Application is accordingly disposed of with a warning that any future violation of Court's orders shall be dealt with strictly in accordance with law.

11. The matter is adjourned for a date to be taken up after three weeks, on receiving of original layout plan of the H.D.A. Commercial Housing Scheme, along with complete revenue and lease record.

JUDGE

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