ORDER SHEET

IN THE HIGH COURT OF SINDH, KARACHI

C. P. NO. D-6418/ 2017

(Mrs. Nelofar Aftab v. Cantonment Board Faisal & others)

C. P. NO. D-5638/ 2017

(Mrs. Shabana Parveen v. Cantonment Board Faisal & others)

Date	Order with signature of Judge

Before:-
Mr. Justice Riazat Ali Sahar
Mr. Justice Muhammad Hasan (Akber)

Date of hearing & order: 10.11.2026

Mr. Mobin, advocate holding brief for Mr. Anwar Ali Shah, Advocate for Petitioners in both petitions.
Ms. Wajiha Mehdi, Assistant Attorney General.

ORDER

Riazat Ali Sahar, J. By this common order, we dispose of the above constitutional petitions, which involve the same controversy. The petitioners claim to be the lawful allottees and possessors, respectively, of residential Plot Nos. R-113 and R-114, Sector-IV, Project 2-A/1, Pakistan Railways Employees Cooperative Housing Society (PRECHS), Depot Hill Station, Gulistan-e-Jauhar, Karachi. They seek protection against interference with construction on the said plots.

2. According to the petitioners, the requisite land-related no-objection certificates were issued by respondent No. 2 on 22.09.2016 and 21.12.2016, and respondent No. 1 thereafter sanctioned their ground-plus-one-floor building plans through letters dated 03.02.2017 and 15.03.2017. They complain that a further NOC was demanded from respondent No. 3, which was not issued despite requests and legal notices dated 24.04.2017 and 01.08.2017. Denying that respondents Nos. 3 and 4 exercise lawful control over their plots, they allege obstruction and threats of demolition and refer to an NOC purportedly issued in respect of adjoining Plot No. R-115.

3. Learned Assistant Attorney General disputes the petitioners' entitlement. She submits that the land in question falls within 141.08 acres claimed by the Ministry of Defence, handed over by the Karachi Development Authority to the Station Headquarters on 03.12.1991 and reflected in the revenue record. According to the respondents, PRECHS allotted plots beyond its lawful limits; an eight-foot strip of Defence land has been encroached upon by the society and

allottees of Plot Nos. R-113 to R-121; and the relevant area also involves land shown as a Railway right of way. It is further maintained that a notification dated 04.12.1984 restricts construction within 100 metres of the Central Ordnance Depot perimeter. The earlier land-related NOCs, it is stated, were withdrawn on 12.07.2017 following objections by the military authorities. Fresh joint demarcation is therefore sought before any action concerning the alleged encroachment.

4. Having considered the material and submissions, we find that the decisive issue is not whether a building plan was sanctioned, but whether the petitioners' plots fall within the land lawfully held and allotted by PRECHS or encroach upon land claimed by the Defence authorities or reserved for Railway purposes. The competing positions concern the source of title, location of boundaries, relevant revenue entries and the physical identity of the land. These matters cannot be conclusively resolved merely by comparing allotment letters, administrative NOCs and plans in constitutional proceedings.

5. In ***Amir Jamal and others v. Malik Zahoor-ul-Haq and others (2011 SCMR 1023),*** the Supreme Court held that questions of title involving factual controversy and requiring evidence are not ordinarily amenable to adjudication under Article 199 of the Constitution, and that the competent Civil Court is the proper forum for such determination. Equally, in ***Muhammad Safeer and others v. Muhammad Azam and others (PLD 2024 SC 838)***, the Supreme Court explained that the existence of an adequate ordinary remedy regulates the exercise of constitutional jurisdiction rather than extinguishing it, and that exceptional intervention depends upon the nature of the alleged illegality and the efficacy of the remedy. In the present case, no patent want of jurisdiction or other exceptional circumstance has been demonstrated which would justify determining the disputed title and boundaries in writ jurisdiction.

6. The sanctions relied upon by the petitioners do not remove that difficulty. Approval of a proposed building plan is regulatory in character; it does not, by itself, create or conclusively establish proprietary title. In ***Syed Mohsin Mahzar v. Province of Sindh and others (2024 SHC KHI 1251),*** this Court, while considering the regime of building-plan approval, recognised the significance of an owner's title being free from disputes and objections. The principle is apposite here: the earlier NOCs and sanctioned plans cannot override a genuine dispute about the land itself, particularly when the land-related NOCs are stated to have been subsequently withdrawn. We express no final opinion upon the validity of that withdrawal.

7. The objection founded on security restrictions also requires a lawful and ascertainable basis. A construction restriction said to arise from the notification dated 04.12.1984 must be examined with reference to its actual terms, territorial application and the location established on the ground. In ***Zubaida Yaqoob Chaudhry v. Military Estates Officer and others (2017 LHC 3392***), the Lahore High Court examined restrictions imposed upon privately owned land near a defence installation under the Works of Defence Act, 1903, in the light of constitutional property protections. That decision illustrates that defence-related restrictions are not beyond legal scrutiny; equally, a municipal building permission cannot authorise construction contrary to any restriction validly applicable to the site. We make no conclusive finding on the applicability of the notification in these proceedings.

8. The lawful course is to identify the land through demarcation by the competent authority, upon notice to the affected parties and examination of the relevant record and plans. In ***Nazeer Ahmed and another v. Province of Sindh and others (2024 CLC 2044),*** this Court explained the statutory role of the revenue hierarchy in matters of entries and demarcation and the need to pursue the remedies provided by the Sindh Land Revenue Act, 1967. Where the controversy extends to competing proprietary titles, the appropriate civil remedy remains available; demarcation alone cannot finally decide such a contest.

9. Nor does the alleged grant of an NOC for adjacent Plot No. R-115 establish the petitioners' entitlement. Its legal and factual circumstances have not been shown to be identical; in any event, a permission granted elsewhere cannot dispense with lawful title or applicable restrictions. The Supreme Court reiterated in ***Chief Secretary, Government of Balochistan and others v. Adeel-ur-Rehman and others (2024 SCMR 145)*** that Article 25 of the Constitution does not confer a right to parity in an unlawful concession.

10. Consequently, the petitioners have not established a clear, presently enforceable right to the directions sought under Article 199. Both constitutional petitions are accordingly **dismissed**, without prejudice to the parties' rights to pursue remedies before the competent forum. Before treating any portion of the plots as an encroachment or taking consequential action affecting possession or existing structures, the concerned authorities shall undertake proper joint demarcation through the competent land-record authority, associating the petitioners, PRECHS and other concerned landholding authorities, after due notice and an opportunity of hearing. Any subsequent action shall be taken strictly in accordance with law. Nothing in this order shall be construed as a declaration

of title in favour of either side or as precluding lawful consideration of the asserted security restrictions. There shall be no order as to costs.

J U D G E

J U D G E

Shahzad Soomro