



towards their client. The purpose of sending the notices through Bar Council was to ensure that Sindh Bar Council should be aware of the conduct of its members. This is one part of the story.

The other part of the story is more pathetic and unfortunate. The Semi Government institution like KMC/KDA, after sending counsel, never takes care of even obtaining report of progress of case from their counsel until the case is decided against them. It is, in my humble view, criminal negligence on the part of the administrator of all these institutions. It has been observed by this Court in several cases that despite orders of the Court no action has been taken by the institutions like KDA and KMC against delinquent lawyers. Such conduct of the lawyers in most of the cases cannot be considered as an ordinary oversight or mistake rather to say the least their willful absence facilitate the Court in passing adverse order against their clients. Since huge public money is involved and in absence of lawyers the Courts are required to be more careful as at times such mysterious absence of lawyers without any reasons is possibly on some unofficial communication to them that there shall be no accountability by the administration of KMC/KDA etc. As a result even sanctity of Court is compromised and therefore, I believe in ever growing corruption in the society it is the duty of the Court that the process of Courts should not be allowed to be used for ulterior motives even unknowingly. Recently, even in a more grave situation like this, in Revision Application No.12/2001 I was constrained to pass the following order imposing heavy cost on KDA, and I quote.

11. *The above discussion was imperative before conclusion of this judgment as the corruption and connivance is rampant particularly in the institution like KDA and KMC. In a recent judgment passed by this bench in civil Revision No.14/1993, an illegal occupant on Government Land had filed a frivolous suit in 1963 and subsequently raised 20 shops and four residential units. In April 2016 after almost 53 years when the court directed the relevant authorities to remove illegal construction / encroachment from the Government land it was not complied until contempt notices were issued to the Director and Deputy*

*Director Land KMC and KDA for completion of the task which was even otherwise their statutory duty. In the case in hand, as discussed above, the connivance of the official of KDA and even the law department in perpetuating illegal occupation of the applicant on the Government land, its conversion into residential and commercial use by him was not possible without help of KDA officials. The help of KDA official is only INACTION as long as the incumbent holds the relevant office. The result is enormous. It goes without saying that in the process of perpetuating the illegality both the applicant and the respondents have conducted themselves in such a fashion that it has also adversely reflected on the image of the court.*

12. *In view of the above facts and discussion while dismissing this revision application, I am constrained to impose cost of **Rs.200,000/-** on the applicant for illegally occupying government land for 35-40 years including **26 years** in courts, and the respondents are also directed to deposit cost of **Rs.100,000/-** on account of their willful inaction for 16 years which has definitely resulted in damaging the image of judiciary. Both the parties should deposit their respective cost with the Nazir of this Court within 15 days and in case of failure to deposit the cost the Nazir may take any coercive measures for its recovery such as attachment of bank accounts and/or moveable/ immoveable properties of the defaulting party.*

The heavy cost imposed by this Court on KDA for its failure to control the conduct of its lawyers was challenged by KDA in appeal before the Hon'ble Supreme Court. The Hon'ble Supreme Court has been pleased to uphold the aforesaid judgment. In the case in hand the situation is not much different. The different lawyers of the defendant right from the date of institution of the instant execution on **14.11.2012** have filed power on behalf of KMC but they have appeared hardly on five dates out of more than 20 dates of hearing. Not only the case quoted above but in many other cases, too, I have sent reports regarding such conduct of lawyers to the Bar Council for action against the lawyers who are guilty of professional misconduct but unfortunately neither the aforesaid judgment upheld by the Hon'ble Supreme Court has been able to bring any change in the attitude of lawyers representing Semi Government institutions nor Bar Council has even warned such counsels.

The responsibility of the semi government institutions or local governments is not limited to engage a lawyer. Being litigant, it is their duty to be vigilant. It is not only violation of code of conduct of lawyers provided under the Legal Practitioners and Bar Councils Act, 1973 but it is also against the constitutional guarantee for fair trial envisaged under **Article 10-A** of the Constitution of Islamic Republic of Pakistan, 1973. Court alone cannot guarantee “Fair Trial” and for quality judgment from the Courts, the litigants and lawyers both have to honestly contribute. By playing hide and seek, the lawyers cause unnecessary delay in disposal of cases and unfortunately only “Courts” are blamed for the delay. Therefore, I believe before proceedings further in this case almost *ex parte* despite service and having engaged a lawyer by the Judgment Debtor, I feel it is the duty of the Court to call the Chief Law Officer of KMC in Court before passing any adverse orders even on merit or otherwise, merely on the failure of the Law Officer of KMC to contest.

Issue notice to Mr. Saeed Akhtar, Principal Law Officer of KMC for **10.10.2017** at **11:00 am** to be present in Court with complete report of cases decided for or against the KMC since **01.01.2017** till date alongwith reports from the audit and accounts department that how much public money has been utilized by KMC in litigation in the name of professional fee of lawyers and other miscellaneous expenses. All this is necessary to check the possibility of collusion of Law Department and the lawyers with litigants who sue KMC or other semi government institutions for recovery of money. Such report should be presented before this Court on **10.10.2017**. Copy of this order be sent to the **Mayor** and **Deputy Mayor** of Karachi Municipal Corporation so that any remedial measures may be taken by them.

Adjourned; to come up on **10.10.2017 at 11:00 am**.

**JUDGE**