

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

Date

Order with Signature of Judge(s)

Present:

Mr. Justice Muhammad Ali Mazhar

Mr. Justice Agha Faisal

C.P. No.D-2167 of 2019

Muhammad Ayaz Khan.....Petitioner

Versus

Federation of Pakistan & Others.....Respondents

C.P. No.D-2387 of 2019

New Royal Enterprises.....Petitioner

Versus

Federation of Pakistan & Others.....Respondents

C.P. No.D-2388 of 2019

Imran Khan.....Petitioner

Versus

Federation of Pakistan & Others.....Respondents

C.P. No.D-2389 of 2019

Muhammad Yousuf.....Petitioner

Versus

Federation of Pakistan & Others.....Respondents

C.P. No.D-2390 of 2019

Fazal Ur Rehman.....Petitioner

Versus

Federation of Pakistan & Others.....Respondents

C.P. No.D-2439 of 2019

Alam Zaib.....Petitioner
Versus

Federation of Pakistan & Others.....Respondents

C.P. No.D-2440 of 2019

Al-Falah Industries.....Petitioner
Versus

Federation of Pakistan & Others.....Respondents

Date of Hearing 13.11.2019

Mr. Obaid-ur-Rahman Khan, advocate for the petitioners.
Mr. Yawar Faruqi, advocate for the respondent Nos.2 & 3 in C.P. No.D-2167 of 2019.
Ms. Nasima Mangrio, advocate for the respondent No.2 in C.P. No.D-2387 of 2019.
Mr. Abdur Razzaq, advocate for the respondent No.2 in C.P. Nos.D-2388, 2389, 2439 and 2440 of 2019.
Mr. Hakim Ali Khan, advocate for the respondent No.2 in C.P. No.D-2390 of 2019
Mr. Hussain Bohra, Assistant Attorney General.

Muhammad Ali Mazhar, J.: The petitioners have in fact challenged the order dated 12.04.2018 passed by the Chairman of Board of Trustees, Vice Chairman and Port Trustee and the two Port Trustees, in pursuance of directions issued by this court in separate constitution petitions, where some directions were issued vide order dated 24.01.2019 to consider the representation of petitioners afresh. On directions the Board Members considered their representation and in their order observed that the KPT is a Federal statutory authority and trustees are duty bound to safeguard the state land and apply their judicious mind and in light of the references cited by the applicants where no fresh temporary license was converted into 25 years or 99 years of lease in C group area and being federal statutory authority no discrimination is done to

applicants or any other citizen and in the present cases the conversion of license into 25 years or 99 years leases cannot be acceded to, hence they rejected the applications filed by the petitioners.

2. Learned counsel for the petitioners argued that the respondent Nos.2 and 3 have wrongly decided their representation and the petitioner are entitled for the extension of license period but we are of the view that once the directions issued by this court, have been complied with, further decision on a question as to whether the petitioners are entitled to the extension of license from 25 years to 99 years or not is not possible in the writ jurisdiction due to various factual controversies which require evidence. The petitioners have approached to safeguard their contractual obligations in the writ jurisdiction. It is well settled exposition of law that disputed question of facts cannot be decided in the writ jurisdiction. In earlier constitution petition, proper directions were issued to decide the representation by the competent authority and again the petitioners have approached this court for further interference. However, after arguing at some length, the learned counsel for the petitioners request that he may be allowed to withdraw these petitions so that he may file civil suits specifically to challenge the impugned order dated 12.04.2018 for decision of their claim as to whether they are entitled to the extension of license period from 25 years to 99 years or not?

3. The learned counsels for the respondent Nos.2 and 3 argued that against some of the petitioners the KPT has already filed complaint under Section 3 of the Port Authorities Land and Buildings (Recovery of Possession), Ordinance, 1962, and the complaints are

pending but the similar complaints have not been filed against all the petitioners except the petitioner Muhammad Yousuf, Alam Zaib, Zamzam Traders, Imran Khan and Muhammad Ayaz Khan.

4. At the present the complaints filed by the KPT are pending for eviction of the occupants under Section 3 of the aforesaid Act, whereas, the learned counsel for the petitioners wants to file civil suit for deciding the fate of their claims as to whether they are entitled to the extension of license from 25 years to 99 years or not.

5. Since the petitioners want to avail the appropriate legal remedy and do not want to press these petitions, therefore, let the petitioner file appropriate proceedings in accordance with the law subject to all just exception. The petitions are disposed of in the above terms.

JUDGE

JUDGE