

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD
C.P.No.D-496 of 2012

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For hearing of MA-1636/17.
2. For hearing of main case.

10.12.2019.

Syed Ahsan Ali Shah, advocate for petitioner.

Mr. Muhammad Ismail Bhutto, Addl:A.G

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The petitioner by way of instant constitutional petition has prayed for the following relief;

- A. That, this Honorable Court may be pleased to direct the respondent No.1 & 2 to immediately depute & assign their concerned officials and without delay, within one week time demolish the ground + 2 floor property in question / Habib Hotel Building and adjoined shops on both sides i.e. part of R.S.No.145, C.S.No.2185, Queens Garden at Station Road, measuring 4984-0 Sq: Ft: in their record), situation in Ward-G, Hyderabad and right after demolition properly inform and intimate this Honorable Court.
- B. That this Honorable Court may be pleased to direct the Respondent No.3 & 4 to extend their full administrative co-operation and assistance in demolition of the ground plus (+) 2 floor property in question / Habib Hotel Building and adjoined shops on both sides i.e. part of R.S No.145, C.S.No.2185, Queens Garden at Station Road, measuring 5018.93 Sq: ft: (City Survey department maintained 4984-0 Sq.Fts in their record), situated in Ward-G, Hyderabad.
- C. Any other relief, under the stated circumstances of above matter, which deemed fit and proper to this Honorable Court may please be granted to the petitioner.

The facts in brief necessary for disposal of instant petition are that the subject property was purchased by the father of petitioner, it is consisting of shops, hotel, and floors. After death of his father, it is

occupied by his sons Muhammad Nasir and Muhammad Tahir, they have made some alteration without consent of other co-owners or permission of Hyderabad Development Authority, which according to the petitioner has sustained major damage. It was in these circumstances, the petitioner has brought the instant petition before this Court for the relief as detailed above.

It is contended by learned counsel for the petitioner that if, the subject property is not demolished timely, then it would collapse with damage to adjoining properties. By contending so, he sought for direction against the official respondents to-do the needful in accordance with law.

Learned A.A.G has sought for dismissal of instant petition by contending that the petitioner by way of instant petition is intending to resolve his dispute of inheritance on the subject property with co-owners by seeking its demolition.

We have considered the above arguments and perused the record.

As claimed, the petitioner is one of co-owner of the subject property. He alone has come before this Court seeking its demolition, which prima facie indicates that he is disputed with his co-owners over its inheritance and possession. If for the sake of arguments, it is believed that there is no dispute between the petitioner and his co-owners over the inheritance and possession of the subject property then they could

demolish the same of their own accord without involvement of the officials. Be that as it may, if the petitioner is having a feeling that the subject property has sustained considerable damage and is about to fall, likely to cause damage to adjoining properties then as an alternate and adequate remedy he may bring such fact within the notice of Hyderabad Development Authority / Sindh Building Control Authority / Municipal Corporation Hyderabad or any of the Authority competent to-do-so, for doing the needful in accordance with law. No case for issuance of direction against the officials to demolish the subject property that too without providing chance of hearing to its occupant / shopkeepers / tenant by this Court in exercise of its constitutional jurisdiction is made out. Consequently, the instant constitutional petition is dismissed.

JUDGE

JUDGE

Ahmed/Pa,

