ORDER SHEET IN THE HIGH COURT OF SINDH, KARACHI C.P. No.D-6148 of 2021

Date Order with Signature(s) of Judge(s)	
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Fresh Case.

1.For order on CMA No.27190/2021.

2.For order on office objections No.17 & 26.

3.For order on CMA No.26063/2021.

4.For order on CMA No.26064/2021.

5.For hearing of main case.

28.10.2021

Syed Safdar Ali, Advocate for petitioners.

Urgent application is granted.

The petitioners through instant petition seek following reliefs:

- A. Declare that the entire structure of Inara Garden and bungalows constructed on it is illegal, unlawful and against the dictum of law laid down by Hon'ble Superior Courts and Sindh Building Control Authority as they possess the houses of about 313 without lay out plan, without lease, without regularization and without occupancy.
- B. Direct the official respondents to dispossess the occupants of Inara Garden.
- C. Nazir of this Hon'ble Court may be pleased to direct to take over the possession of entire Society of Inara Garden and houses constructed in it till the completion of regularization, occupancy, lease of the properties.
- D. Restrain the respondents, their officers, official, representative or any other person(s) from using the properties in Inara Garden, till final disposal of this petition, having no occupancy, regularization and leases in their favour.

It is the claim of the petitioners that they are owners of the property bearing 18-38 acres out of Survey No.86, Sector 25-A, Scheme-33, Gulzar-e-Hijri, Karachi by virtue of Form-II. It is case of the petitioners that the Directors/owners of the project Inara Garden (Respondent No.7) are the land grabbers who have encroached upon the said land of petitioners illegally and constructed 313 bungalows.

It is an admitted position that the petitioners have already maintained a Suit bearing No.14/2006 for declaration, cancellation, demarcation, possession, permanent/perpetual and mandatory injunction against the respondent No.7, wherein they are claiming their title and denying the title of respondent No.7 in respect of the subject land. They have also sought a declaration to the effect that defendant No.1 (respondent No.7 in this petition) being a trespasser is not entitled to raise construction on the subject land. As per the learned counsel for the petitioner the said suit is still pending adjudication before this Court on its Original Side and fixed for recording evidence of the parties.

In view of the above, this petition on the same subject matter with disputed facts cannot be entertained by this Court in its Constitutional Jurisdiction, under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 as the same requires recording of pro and contra evidence of the parties which is the domain of the competent civil Court in terms of Section 42 of the Specific Relief Act, 1877. Hence, this petition being devoid of any merit is dismissed in limine, alongwith pending applications.

JUDGE

JUDGE

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