

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P. No. D-2665 of 2021

Order with signature of Judge

Fresh Case

1. For order on Misc. No.11548/2021.
2. For order on office objection no.31
3. For order on Misc. No. 11549/2021.
4. For order on Misc. No. 11550/2021.
5. For order on Misc. No. 11551/2021.
6. For hearing of main case.

21.04.2021

Molvi Iqbal Haider, advocate for the petitioner.

1. Urgency granted.
2. To be complied with within one week.
3. Exemption application is granted subject to all just exceptions.
4. Primarily, through the instant petition, the petitioner is seeking the declaration to the effect that the conversion of the parkland/amenity of Block-1, Gulistan-e-Johar Scheme No.36, into residential purpose, violates the original Master Plan in the city of Karachi. Per petitioner, the construction carried out by the private respondents on the amenity plot is illegal unlawful, and required to be demolished/canceled; and, the same be restored to its original position. It is contended inter alia by the learned counsel for the petitioner that he is the lawful owner of Plot No.B-60, Block-1, Gulistan-e-Johar Karachi measuring 400 sq. yards vide transfer order dated 09.3.2017. He averred that litigation started between the petitioner and the private parties before this Court and the matters are under adjudication. Learned counsel referred to the orders passed by this Court in C.P. No.D-2900/2017 and order dated 16.3.2021 passed by the Single Judge (O.S) of this Court in Suit No.447/2021 (pages 91 to 149) and extensively argued on the subject issue, however, he emphasized that the conversion of the amenity plot into residential purpose is in utter violation of the law laid down by the Hon'ble Supreme Court passed in Civil Petition No.815-K/2016 and C.R.P 19-K/2017, CMA No.391-K/2017 in C.R.P 19-K/2019 (pages 173 to 181). He further argued that the Hon'ble Supreme Court has held that no such change of use of land shall be permitted and conversion of residential houses into amenity plots mean for parks, playgrounds, and other amenities, and their conversion shall not be allowed for any other purposes. He further submitted that the order of the Hon'ble Supreme Court needs to be enforced by this Court as provided under Article 187(2) of the Constitution. He prayed for the direction to the respondents 2 to 5 not to take any coercive action against the petitioner in respect of the plot of the petitioner.

To ascertain as to whether the respondent-Sindh Building Control Authority, has complied with the directions contained in the order dated

22.01.2019 passed by the Hon'ble Supreme Court in the aforesaid matter in its letter and spirit in respect of the issue of conversion of amenity plot for another use or otherwise. Let notice be issued to the respondents as well as to learned AAG for 04.05.2021 with direction to file comments.

5. In view of the above position of the case; and, to ascertain the factual position of the subject premises, let at the first instance inspection of the subject premises be carried out by the Nazir of this Court strictly under law, after due notice to all concerned. The compliance report shall be submitted accordingly on or before the next date of hearing. Fee of the Nazir is fixed at Rs.10,000/- payable by the petitioner in advance.

JUDGE

JUDGE

Nadir*