

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Suit No.766 of 2016

DATE

ORDER WITH SIGNATURE OF JUDGE

1. For hearing of CMA No.16703/17 (U/O 39 Rule 1 & 2 CPC)
2. For hearing of CMA No.16704/17 (U/O VII rule 11 CPC)
3. For hearing of CMA No.5107/16 (U/O 39 Rule 1 & 2 CPC)
4. For orders on CMA No.3035/18 (U/A 204)
5. For orders on CMA No.3036/18 (U/S 94)

27.02.2018.

Mr. Khawaja Shams-ul-Islam, Advocate for Plaintiffs.
Mr. Abdullah Mushi, Advocate for Defendant.
Mr. Sharafuddin Mangi, State Counsel.
Mr. Mehmood Yousufi, Advocate for KDA.

1,2 &3. To come up on 21.03.2018. Interim order, passed earlier, to continue till the next date of hearing.

4-5. Learned Counsel for Plaintiff submits that despite restraining orders, the alleged contemnor(s) have issued Notices dated 20.02.2018 and has once again threatened to take coercive action. Counsel for Cantonment Board submits that though these notices have not been issued with his consultation, however, the Hon'ble Supreme Court through judgment in the case of ***Mst. Yawar Azhar Whaeed (Deceased) v Khalid Hussain & Others (2018 SCMR 76)*** has issued certain directions to Cantonment Board throughout Pakistan. He has placed such copy on record through statement and has read out Para 20.

On perusal it reflects that such directions contained in Para 20 provides that all private educational institutions i.e. Schools, colleges etc. constructed in the Cantonments and all commercial buildings erected in residential areas of Cantonments throughout Pakistan shall

be *removed gradually*, having been constructed in violation of the law and rules as well as by-laws and the master plan and their original shape be restored. It does not permit or direct the Board to take any action as deemed fit without following the directions as above. Moreover, in this matter there is already a restraining order in field whereby earlier Notices of similar nature have been suspended, till further orders, and such order is still in subsistence. To that effect there is no observation in the order of Hon'ble Supreme Court. The Cantonment Board and alleged Contemnors ought to have been careful and vigilant before issuing the impugned Notice(s). At least this Court could have been approached before taking such action.

Let Notice be issued to the alleged Contemnors for 21.3.2018 when either all alleged contemnors shall be present in Court to explain their position or positively file their Counter Affidavits before such date. Till then the impugned Notices dated 20.2.2018 annexed with these Application(s) shall remain suspended.

To come up on 21.3.2018

J U D G E

Ayaz P.S.