

ORDER SHEET

# HIGH COURT OF SINDH AT KARACHI

C.P. No.D-5641 of 2019

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Date	Order with signature of Judge
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1. For hearing of Misc. No.37501/2019.
  2. For hearing of Misc. No.24935/2019.
  3. For hearing of main case
  4. For orders on Nazir's report dated 17.11.2020.
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20.11.2020.

Mr. Farooq H. Abbasi, advocate for the petitioner.

None present for respondent No.1/SBCA.

Mr. Imdad Ali Saheto, advocate for respondent No.2.

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1to3. Mr. Khalid Daudpota, advocate has filed vakalatnama on behalf of the respondent No.3, which is taken on record.

The instant petition has been filed whereby directions are sought against the respondents for removing BTU Communication Tower from roof of petitioner's Flat No.604, 6<sup>th</sup> Floor, Taj Luxury Apartment, Plot No.146/1, Shah Waliullah Road, Khadda Nawabad, Lyari Town, Karachi. Notices thereafter were issued to the respondents.

Counsel for the parties have been heard at some length and record has been perused.

It may be noted that the Revised Policy/guideline in respect of installation of BTS has been formulated, according to which, a complaint against BTS Tower will be referred to BTS approved committee for resolution of disputes. Since remedy is available under the law with regard to installation of BTS tower, hence the petitioner in our view should file a proper complaint with regard to removing of BTS tower, which would be heard and decided in accordance with law by the concerned committee. We have also been informed that the generators installed, along with the BTS towers, have now been removed, hence, the aspect of nuisance created by these generators seems to be over. We have also been informed that the petitioner, namely, Mst. Haleema Bai has expired, however no application for bringing her legal heirs on record has been filed. From the averments of the counsel for the petitioner it seems that the only grievance being that some damages have been caused to the property by installation of those BTS towers. Counsel for the petitioner

was specifically asked that if now grievance is only with regard to damages caused to the property as to why a suit for damages was not filed by the petitioner. No plausible explanation is available with him. It appears that now the only grievance agitated before us by the counsel for the petitioner is that some damages have been caused to the property by the installation of BTS towers for which the petitioner should avail the remedy provided under the law, if so advised. However, so far as installation of the BTS tower is concerned, if aggrieved, the petitioner should file a proper complaint before the concerned authority for redressal of grievance. With these directions, the instant petition stands disposed of along with the listed applications.

4. Report of the Nazir dated 17.11.2020 is taken on record.

JUDGE

JUDGE

