

**IN THE HIGH COURT OF SINDH,
AT KARACHI**

C. P. No. D-1031 of 2021

Present:

Ahmed Ali M. Shaikh, CJ
and Yousuf Ali Sayeed, J

Mst. Tahira Begum & others-----Petitioners

Versus

Federation of Pakistan & others-----Respondents

08.12.2022.

Syed Ehsan Raza, Advocate for the Petitioners. Muhammad Akram Tariq, Advocate, for the Respondents No.2 to 5. Mr. Kazi Abdul Hameed Siddiqui, DAG.

ORDER

YOUSUF ALI SAYEED, J. - The Petitioners have invoked the jurisdiction of this Court under Article 199 of the Constitution, assailing Notice/Letter No.1477 dated 17.09.2020 emanating from the Office of the Deputy Administrator, Evacuee Trust Property, Government of Pakistan (“**ETPB**”) under the signature of the Deputy Administrator, on the subject of cancellation of a 99 years lease in respect of Property No.WO-2/4-6, measuring 16481.35 Sq. Ft. situated at Nanakwara Nishter Road, Karachi (the “**Subject Property**”), seeking that the aforementioned Notice/Letter be declared illegal and unwarranted under the law and of no legal effect. It has also been sought that certain demands said to have been raised in terms of that Notice/Letter be declared illegal and set aside and ETPB and its functionaries be restrained from dispossessing the Petitioners and their tenants from the Subject Property.

2. The impugned Notice/Letter, as addressed to the Petitioners Nos. 1 and 2 respectively, reads as follows:

**“GOVERNMENT OF PAKISTAN
OFFICE OF THE DEPUTY ADMINISTRATOR
EVACUEE TRUST PROPERTY**

Phone/Fax: 021-99216259
E-mail: **etpokarachi@yahoo.com**

JM-161, Trust House,
Purani Numaish,
M.A.Jinnah Road, Karachi

No. 1477.

Dated 17.09.2020

To,
AD

Through Registered

1. Mst. Tahira Begum widow of Muhammad Yamin,
and other legal heirs,
WO-2/4-6, situated at Nanakwara,
Nishtar Road, Karachi.

2. Mr. Babar Jan s/o Muhammad Yameen
WO-2/4-6, situated at Nanakwara,
Nishtar Road, Karachi.

**SUB: CANCELLATION OF 99 YEARS LEASE IN RESPECT OF
PROPERTY NO. WO-2/4-6, MEASURING 16481.35 SQ. FT.
SITUATED AT NANAKWARA, NISHTAR ROAD, KARACHI
GRANTED ON THE BASIS OF FAKE/BOGUS APPROVAL OF
THE FEDERAL GOVERNMENT.**

During hearing before the Chairman, ETP Board, Lahore you submitted documents of 99 years lease in respect of ETP No. WO-2/4-6 measuring 16481.35 Sq.ft. situated at Nishter Road, Karachi. The said documents were sent to the Federal Government/ Ministry of Religious Affairs for verification. Your submitted documents are fake and bogus as per Ministry Letter No.12(05)/2020-P-II dated 09.09.2020. This act establishes that documents were prepared by Mr. Yameen in connivance with the then Administrator (SZ), Karachi to usurp valuable Trust Property. Your act has not only caused financial loss to ETPB on account of non-payment of rent amounting to Rs.4,79,70,721/= (provisionally subject to adjustment) from 1991 to 2020. Your act warrants for criminal action on account of fraud/cheating and causing financial loss to Government exchequer. The lease on fake, bogus documents through fraudulent and deceitful manner has been cancelled by the Chairman, ETPB vide order dated 14.09.2020. Criminal case/FIR is being registered against you and other responsible/delinquents.

(Saeed Ahmed Qureshi)
Deputy Administrator (U)

C.C.

1. Staff Officer to Chairman, ETP Board, Lahore.
2. Deputy Secretary (P), ETP Board, Lahore.
3. Administrator, ETP (Southern Zone), Karachi.”

3. As is apparent from a perusal of the impugned Notice/Letter, the same merely refers to certain underlying events having culminated in an Order dated 14.09.2020 for cancellation of the lease in respect of the Subject Property on grounds of fraud, so as to then go on to intimate the recipients addressed that a criminal case/FIR is set to be registered against them in that regard.

4. Thus, it falls to be considered that whilst the Petitioners have challenged the Notice/Letter, they have not challenged the underlying Order dated 14.09.2020, which was not even been filed alongwith the Petition, but was subsequently placed on record under cover of a Statement filed on behalf of the Respondents No.2 to 5, along with copies of the Show Cause Notice and other Notices for Appearance issued as precursor to the proceedings culminating in the Order. A perusal of those documents reflects that an opportunity was afforded to the Petitioners to make their representation in the matter, and it is apparent from the face of the Order dated 14.09.2020 that certain replies were submitted and appearances made on various dates. Hence, it cannot even be said that the proceedings ensued behind the back of the Petitioners, in contravention of the principle of natural justice. Furthermore, as pointed out by learned counsel for the Respondents Nos. 2 to 5, an alternate remedy was even otherwise available to the Petitioners in respect of the Order dated 14.09.2020 under Section 17 of the Evacuee Trust Properties (Management & Disposal) Act, 1975, which stipulates that:

“17. Revision. The Federal Government may at any time of its own motion or otherwise, call for the record of any case or proceedings under this Act, which is pending or in which the Chairman, an Administrator, a Deputy Administrator or an Assistant Administrator has passed an order, for the purpose of satisfying itself as to the correctness, legality or propriety of such an order, and may pass such order in relation thereto as the Federal Government thinks fit: Provided that the record of any case or proceedings in which the Chairman, an Administrator, a Deputy Administrator or an Assistant Administrator has passed an order, shall not be called for under this section on the application of any aggrieved person made after the expiration of fifteen days from the date of such order.”

5. Under the given circumstances, we are of the view that the Petition is misconceived and not maintainable, hence we hereby dismiss the same along with the pending miscellaneous applications.

JUDGE

CHIEF JUSTICE

MUBASHIR