

**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**

**C. P. No. D - 2403 of 2016**

**Present:**

Justice Zafar Ahmed Rajput

Justice Shamsuddin Abbasi

M/s. Ghulam Shabeer Shar and Ashok Kumar K. Jamba,  
Advocates for petitioner.

Mr. Ishfaque Ahmed Abro, Assistant Attorney General.

Mr. Zulfiqar Ali Naich, Assistant Advocate General.

Date of hearing : 21-09-2022

Date of decision : 02-06-2023

**ORDER.**

Through the instant petition, petitioner Mahesh Anand seeks following relief(s):-

a).That this Honourable Court may pleased to declare the act of Respondent No.9 and 10 of demolish the above said medical store situated at Civil Hospital Sukkur and against the terms and conditions of the agreement.

b).To direct the Respondent No.9 and 10 to reconstruct the above said property of the petitioner viz M/S Pharmax fair price medical store in the premises of Civil Hospital Sukkur.

c).To grant any other equitable relief as deems fit by this Honourable Court in circumstances of the case.

2. It is a case of the petitioner that Federal Ministry of Health initiated a scheme of public-private collaboration to set up fair price peoples pharmacy in Government Hospitals for the sale of medicines and other items used in the Hospitals to the patients at low prices. After due process an agreement was signed by Federal Government and M/S Pharmax Pakistan Pvt. Ltd to provide low price medicines through people Pharmacies to patients at Teaching Hospitals, District Headquarter Hospitals and Tehsil Hospital and for that M/S Pharmax Pakistan Pvt. Ltd has to build-up/construct the Medical Store in the name and style of Pharmax Medical Store. M/S Pharmax Pvt. Ltd constructed Medical Store within the premises of Civil Hospital, Sukkur and provided franchise/license to the petitioner in the year 1995. The petitioner started business in Medical Store constructed by respondent No.6 to provide the medicines on low price to the patients. He has also deposited an amount of Rs.9,375/- per year through pay orders and was smoothly running his business. In the year 2015, the respondent No.10 Mukhtarkar, Sukkur issued notice to the petitioner on the instructions of respondent No.9/Assistant Commissioner, Sukkur for vacating Pharmax Medical Store without assigning any reason. The petitioner replied to the notice to respondents No.9 and 10.

On 17.05.2016 at about 4-pm the respondent Nos. 9 and 10 along with their sub-ordinate staff came at the Store of the petitioner with heavy machinery and illegally, forcibly and unlawfully demolished the Pharmax Medical Store of the petitioner without any justification. It is further case of the petitioner that no legal notice was issued to the petitioner and the respondent Nos.9 and 10 have adopted illegal method for demolishing his Medical Store and caused heavy loss to him.

3. The comments/statements have been filed by the respondents. The relevant comments are of respondents No.9 and

10, which reveals that Pharmax Medical Store was illegally constructed on the road area near Deewan-e-Mushtaque Civil Hospital, Sukkur and the petitioner was served with notice to remove the illegal encroachment and to vacate the road voluntarily otherwise encroachment will be removed in accordance with law. Due to non-compliance of the notice, the respondents have removed encroachment and demolished the aforesaid Store, which was constructed over the road.

4. Heard the learned counsel for the petitioner, Assistant Attorney General, Assistant Advocate General and perused the material available on record.

5. It is a matter of record that medical store was constructed by M/S Pharmax Pvt. Ltd over Government land. Neither the land/property belongs to petitioner nor he has constructed the aforesaid Medical Store and he was only license holder to run the Medical Store. Even the claim of the petitioner has not been admitted by the Civil Hospital, Sukkur. The alleged Medical Store was illegally constructed over the road side and the respondents No.9 and 10 in order to remove the encroachment, have demolished the Medical Store. Contention raised by learned council that Petitioner sustained heavy loss which could not be considered for the reason that factual controversy cannot be resolved through writ petition, therefore this petition being devoid of merit is dismissed accordingly.

JUDGE

JUDGE

Akber.