

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Suit No.-1973 of 2023
[Yasmeen Saleem & Another vs. Sindh Building Control Authority & Others]

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| Date | Order with signature of Judge(s) |
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1. For orders on office objection at Flag 'A' and reply of Advocate at Flag 'B'.
2. For orders on CMA No.16111/2023.
3. For hearing of CMA No.15166/2023.

23.01.2024

Mr. Muhammad Faran Khan, advocate for the plaintiffs.
Mr. Khursheed Javed, advocate for the defendant No.1/SBCA.
Mr. Ahmed Masood, advocate for the defendant No.3.
Mr. Abdul Qadir, advocate holding brief for Mr. Blosch Ahmed Junejo, advocate for the applicant intervener.
Mr. Ashraf Ali Mirani, Law Officer, Tourism & Antiquities Department, Sindh.

1. Deferred.
2. Mr. Abdul Qadir, advocate, holds brief for Mr. Blosch Ahmed Junejo, advocate for the applicant intervener, requests for adjournment. Adjourned.
3. Briefly stated vide Intimation Notice dated 21.07.2023, the owner/occupants/tenants of the suit property were informed that the subject property has been declared as a dangerous building. Time and date was given for proper inspection etc. Post inspection, in compliance with the orders of the High Court in CP D 6110 of 2022, an Ejectment Notice dated 21.09.2023 was issued and the same is essentially impugned in this suit.

It is submitted by the learned counsel, that the plaintiffs are tenants in the condemned building and this entire exercise is being undertaken to require them to vacate the same. Collusion is also alleged and in conclusion it is articulated that the plaintiffs have also obtained an assessment from some private enterprise that the building is not dangerous, as ascertained by the regulatory bodies.

Learned counsel for the defendant No.3 submits that the suit property already stands condemned as dangerous and sanction of any occupation thereof would put the lives of the occupants at serious risk.

Mr. Khursheed Javed, advocate submits on behalf of the SBCA that an inspection of the building has been conducted, along with the

representative of the Culture and Heritage Department, five members of the Technical Committee on Dangerous Buildings, and the report has been placed on record, available at page 107, second part of the court file. The attention is drawn to paragraph 15 of the record, which concludes that the building is dangerous.

It is articulated that Section 16 of the Sindh Building Control Ordinance, 1979, provides forum of appeal from any order passed thereunder and that the plaintiffs remained at liberty to avail the option, if aggrieved.

The record demonstrates that the inspection was carried out by the concerned regulatory authorities and the respective notices have also been issued in pursuance thereof.

If a dwelling has been determined to be dangerous, keeping such findings in abeyance may imperil the lives and livelihood of citizens. Learned counsel for the defendants have also relied upon judgments reported as *2011 MLD 1339 (Abu Bakr and Others vs. Lal Taj Khan & Others)*, *1998 MLD 1302 (Mehboob Ali & Another vs. Fazal Yousaf Sadiq & Others)* and *1986 CLC 581 (Pakistan Pharmaceutical Products Ltd. & Others vs. Karachi Building Control Authority & Another)* to demonstrate that the interim orders, in the circumstances sought herein, are not merited.

In view hereof, the requirements for granting of an interim stay, being prima facie case, balance of convenience and irreparable loss are not made out in favor of the plaintiffs, hence, the listed application is dismissed.

Judge