

THE HIGH COURT OF SINDH KARACHI

Present:

Mr. Justice Adnan Iqbal Chaudhry &
Mr. Justice Zulfiqar Ali Sangi.

C.P. No. D - 2230 of 2023
[Mst. Shehar Bano vs. S.B.C.A. & Others]

Petitioner : Mst. Shehar Bano widow of Fakhar Uddin Akber Ali, through Mr. Ishrat Zahid Alvi, Advocate.

Respondent 1 : Sindh Building Control Authority through Mr. Ghulam Akbar Lashari, Advocate.

Respondent 3 : Mr. Muzammil Hussain Qureshi through M/s. Muhammad Idrees, Advocate & Mr. Awais, Advocate, holds brief for Mr. Saad Fayaz, Advocate.

Respondents 2, 4-6 : Nemo.

Date of hearing : 18-07-2023

Date of order : 18-07-2023

ORDER

Adnan Iqbal Chaudhry J. - The Petitioner claims to be co-owner of plot bearing Survey No.W.O.7, Survey Sheet No.22 (old Survey No. D-1/25-A), measuring 286 sq. yards at Dr. Syedna Tahir Saifuddin Road, Wadhumaal Udharam Quarters, opposite the City Courts, Karachi, where she claims to be in possession of her share of the building on said plot *viz.* two shops on the ground floor. She is aggrieved of a sealing notice dated 04-05-2023 affixed by the Sindh Building Control Authority [SBCA] on the shutters of said shops stating that the building has become dangerous.

2. Learned counsel for the Petitioner submits that the sealing notice is unlawful; that it is *malafide* having been issued at the behest of the other co-owners of the plot, *viz.* the Respondents 4 and 5 who are in dispute/litigation with the Petitioner; and that prior to

declaring the building as dangerous the Petitioner has never been provided a hearing in terms of the proviso to section 14(3) of the Sindh Building Control Ordinance, 1979 [SBCO] read with Chapter 7 of the Karachi Building & Town Planning Regulations, 2002 [KBTPR]. On the other hand, learned counsel for the Respondent No.3 and learned counsel for the SBCA submit that the building had been declared dangerous by the Technical Committee on Dangerous Buildings, where after all occupants except the Petitioner had vacated the same and the building had been substantially demolished.

3. Heard learned counsel and perused the record.

4. Admittedly, the building on the subject plot was very old. The documents filed by the Respondents show that the Technical Committee on Dangerous Buildings had concluded that:

“Roof slab has collapsed on front side. Structure is in very poor condition. The building is inhabitable hence declared dangerous. Demolition permission may be granted after verification of this department”.

Subsequently, in January 2022, the SBCA had issued ejectment notices under section 14(3) of the SBCO to the owners, occupants and tenants of the building, requiring them to vacate the same immediately for the purposes of demolition as the building may collapse and cause loss of life and property. Apparently, all complied except the Petitioner on the ground floor. Resultantly, the building was partially *albeit* substantially demolished. That fact that the upper floors of the building stand demolished is acknowledged by the Petitioner in para 3 of the petition.

5. The Petitioner had never challenged the findings of the Technical Committee that the building had become dangerous, inhabitable and was required to be demolished. Nor did she challenge the ejectment notices issued by the SBCA under section 14(3) of the SBCO as far back as January 2022. It cannot be the Petitioner's case that she was unaware of said findings and notices when the other occupants of the building were vacating it and when

the structure around her was being demolished as dangerous. It is therefore too late in the day, rather futile for the Petitioner to contend that she was not given a hearing in terms of the proviso to section 14(3) of the SBCO read with Chapter 7 of the KBTPR so as to dispute the demolition recommended by the Technical Committee.

6. The photographs filed by the Respondents demonstrate that after demolition of the upper floors of the building, the roof of the shops on the ground floor are in a precarious state, posing a threat not only to the life of the occupants of said shops but also to the life of the public who frequent those shops and the thoroughfare. In such circumstances, we see no reason to interfere with the public duty of the SBCA of ensuring public safety against a dangerous building. Therefore, the petition is dismissed along with pending applications.

JUDGE

JUDGE

*SHABAN**