

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD.**

Present:
Mr. Justice Muhammad Shafi Siddiqui
Mr. Justice Arshad Hussain Khan

C.P. No.D-1435 of 2017

[Ghulam Hussain Memon versus Province of Sindh & others]

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For petitioner: Barrister Faizan Hussain Memon, advocate.

For SBCA: Mr. Muzamil Khan Bughio, advocate.

For Province of Sindh: Mr. Muhammad Yousif Rahpoto, Assistant
Advocate General, Sindh.

Date of hearing & decision: 29.08.2023.

ORDER

Muhammad Shafi Siddiqui, J.- It appears that on the strength of one time regularization amendment, as claimed, an application for regularization of the unauthorized construction was made by the petitioner. Before any order could have been passed on it, the amendment for one time regularization was challenged; that is the amnesty scheme. Hence, on 27.09.2013, the Sindh Building Control Authority issued a letter to the petitioner that the unauthorized construction, including but not limited to 5th floor, could not be considered in view of the interim order passed by the Sindh High Court at principal seat in a petition where the amnesty scheme on the basis of the amendment in terms of Regulation 3-2.21 was challenged. Insofar as the letter dated 13.09.2013 is concerned, that is of no consequence in view of the statement made by them earlier on 27.09.2013.

It seems that unless the application which was apparently made within time frame as required under the amnesty scheme in terms of Regulation 3-2.21, the action either regularizing or not regularizing unauthorized construction could be taken, at the most the Sindh Building Control Authority (SBCA) Hyderabad would be in a position to pass an order regularizing or not regularizing the additional structure, which may be possible subject to outcome of

C.P. No.D-408/2012 which is pending at principal seat of this court, where amnesty scheme in terms of the above regulation is challenged.

With this understanding, the petition stands disposed of. Till such controversy is resolved in the aforesaid petition no coercive action shall be taken and after disposal of the petition respondents-SBCA to act in accordance with law in disposing of the application for regularization one way or the other.

JUDGE

JUDGE

Irfan Ali