

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI.
HCA No. 187 of 2024

Dated Order with signature of Judge.

Hearing case (Priority)

1. For hearing of CMA No. 1448/2024
2. For order on office objection / reply
3. For hearing of CMA No. 1118/2024
4. For hearing of main case
5. For hearing of CMA No. 1119/2024
6. For hearing of CMA No. 1120/2024

07.08.2024

Khawaja Shamsul Islam, Advocate for the Appellant a/w Zohaib Sarki, Advocate.

Syed Shohrat Hussain Rizvi, Advocate for the Respondent
Kazi Abdul Hameed Siddiqui, D.A.G.

This appeal impugns the Order made in the underlying Suit on 30.04.2024 whereby Appellant was restrained from carrying out any further construction activity on Plot No.221 E.I. Lines, Saddar Karachi.

Today, Mr. Syed Shohrat Hussain Rizvi, Advocate, has filed his Vakalatnama on behalf of the alleged Contemnors Nos.2 to 5 along with the Counter Affidavit of the Respondent No.2 (alleged Contemner No.1) in response to CMA No.1448/2024, as well as a Statement enclosing the Building Bye-Laws 2023 of the Karachi Cantonment Board, which are taken on record.

That Counter-Affidavit reflects that a plan for construction of 9 floors on the aforementioned plot has been approved and the controversy relates to construction of further floors having been carried out, albeit approval for the same having been declined. The relevant excerpts from the Counter Affidavit read as follow:-

“It is further submitted that the approval/regularization was sanctioned for nine floors only in the year 2020, whereby the appellant without obtaining approval under the law has started construction above 9th floor, hence, upon receipt of information the Appellant was noticed on dated 13.02.2023 with the directions to stop illegal erection above 9th floor, whereas the construction work is in progress and till to date the Appellant has constructed two (02) additional floors up to the eleventh (11) floors.

.....the matter regarding approval above 9th floors i.e. from 10th to 17th floors of construction was forwarded to the Station Headquarter for NOC from security point of view as required under Chapter XIV of Building bye-laws, whereas the Corps Headquarter has declined to give approval above 9th floor due to security point of view as the Suit Property is surrounded within 1.5 KM circle of Corps Military installations such as Corps HQs, COMKAR HQs, Station HQ, ISI Operations, Army Chief Residence and other operations. However, it does not assure that the submission of revised building plan upto 17th floor shall be approved as proposed but the same should be according to the Building bye-laws and in accordance with law. Hence, after the receipt of regret of the subject plan, the same has been returned and there is no application pending for approval in this office (Respondent No.2).”

As the impugned Order is ad-interim in nature, with the Suit and relevant applications remaining pending and the overall fate of the construction on the aforementioned plot to ultimately be determined in that proceeding, by consent, the captioned Appeal stands disposed of while modifying the impugned Order to the extent that the Appellant may carry on and complete the construction/finishing up to and including the 9th floor, with all further aspects to be adjudicated within the framework of the Suit.

JUDGE

JUDGE

TariqAli/PA