

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

C.P. No.D-1126 of 2020

Date	Order with Signature of the Judge
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1. For hearing of CMA No.10415/2021.
2. For hearing of CMA No.22758/2022.
3. For hearing of CMA No.5268/2020.
4. For hearing of Main Case.
(Notice issued)

14.02.2024

Mr. Ghulam Hussain, Advocate for Petitioner.
Ms. Naushaba Solangi, AAG Sindh.
Mr. Anwer Ali Shah, Advocate for SBCA.

Counsel for SBCA contends that they have partially complied with the order dated 17.01.2024, such report along with photographs is taken on record, copy whereof is provided to the other side. In similar way reply of SHO speaks that matter pertains to SBCA, is taken on record. Besides it would be conducive to refer Section 18-A of the Sindh Building Control (Amendment) Act 2013, which is that:

“18-A.(1) Establishment of Special Court. Government shall, by notification in the official gazette, establish as many Special Courts as it considers Insertion of section 18-A in Sind Ordinance No.V of 1979. necessary and appoint a Judge for each of such Courts and where it establishes more than one Special Court, it shall specify in the notification, the place of sitting of Judge of each Special Court and the territorial limits within which it shall exercise the jurisdiction under this Ordinance.

(2) A Judge of Special Court shall be appointed by Government after consultation with the Chief Justice of the High Court of Sindh and no person shall be appointed as Judge of the Special Court unless he is or has been a Sessions Judge, Additional Sessions Judge or has ten years standing as an Advocate.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, all cases relating to the violation of the provisions of this Ordinance, shall be triable exclusively by a Special Court.

(4) All cases relating to the violation of the provisions of this Ordinance, pending in any court immediately before the appointment of a Judge of Special Court, shall stand transferred to the Special Court, having jurisdiction over such cases.

(5) In respect of cases transferred to a Special Court by virtue of subsection(4), the Special Court shall not, by reason of the said transfer, be bound to recall and re-hear any witness, who has given evidence in the case before transfer and may act on the evidence already recorded by or produced before the Court which tried the case before transfer.”

In view of that, a complete mechanism has been provided and Province of Sindh is bound to establish Special Courts in the towns in all over Sindh. On query, it has come on record that yet this Section has not been complied with by the Province of Sindh though this Ordinance was promulgated in the year 1979 and this provision was added in 2013 despite lapse of more than 10 years. This Court takes judicial notice and issue directions to the Province of Sindh that Law Department shall notify the special Courts provided under the Act in the area(s) falling within the limits of municipal corporations by establishing independent Courts or by notifying regular Courts as Special Courts with the consultation of Hon'ble Chief Justice of Sindh as provided under the Act. This order shall be complied with within one month. In case of failure Secretary Law shall be in attendance. This order shall be communicated to Chief Secretary Sindh and Secretary Law for compliance. Non-compliance would be considered as pejorative act on the part of concerned authorities.

To come-up on **18.03.2024 at 11.00 a.m.**

J U D G E

Nasir

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