

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

High Court Appeal No.72 of 2024

Majida Akram & others
Versus
Kausar Khursheed Allahwala & others

Date	Order with signature of Judge
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1. For orders on CMA 418/24
2. For orders on CMA 405/24
3. For hearing of main case.
4. For orders on CMA 406/24

Dated: 22.02.2024

Mr. Mazhar Ali B. Chohan along with appellant No.1 present in person.

Mr. Ahmed Masood along with Mr. Muhammad Altaf for respondent No.1 on statutory notice under order XLIII Rule 3 CPC.

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Mr. Mazhar Ali B. Chohan Advocate files his Vakalatnama on behalf of appellants in Court today, which is taken on record.

Heard the counsel and perused record.

This appeal is arising out of an order dated 24.01.2024 which only seeks compliance of orders earlier passed in the suit and attained finality at least up till Division Bench of this Court.

A suit for declaration, possession and permanent injunction was filed by respondent No.1 against the appellants. During pendency of the suit order dated 15.05.2017 was passed which has aggravated the controversy between them. The order in substance reads as under:-

“Accordingly, CMA No.8024 of 2017 of site inspection is granted and Nazir of this Court is appointed as Commissioner to inspect the above suit plot together with Secretary of defendant No.1’s Society. Nazir will undertake the following task:

- (i) *Firstly, the Nazir should ensure that suit plot actually exists and then inspect the same.*

- (ii) *Whether the Sindh Building Control Authority (SBCA) has approved a building plan for raising such construction or not and once it is established that the construction is illegal, the same shall be demolished/pulled down at the costs of delinquent party.*
- (iii) *Nazir is further empowered to take photographs and can seek police assistance and the concerned SSP and SHO are directed to provide complete assistance to the Nazir for carrying out the above assignment effectively.”*

Thus, essentially it seeks demolition of the structure that was raised without approved plan, perhaps as an interim measure. This order was challenged by the appellants in High Court Appeal No.310 of 2017. The appeal vide order dated 17.03.2020 was dismissed as not pressed and the appellants were ordered to pursue the matter/their application under order VII rule 11 CPC.

Some miscellaneous applications, including review application, were then filed in the aforesaid disposed of appeal and were taken up for consideration on 03.11.2021. The Bench was pleased to issue notice with an injunctive order that the appellants may not be dispossessed till next date of hearing. On 11.05.2023 the said review application for recalling order dated 17.03.2010 was dismissed. The record shows that yet again against order dismissing the review application another review application was filed as CMA No.2696/2023, which too was dismissed on 21.08.2023. An appeal claimed to have been pending before Supreme Court in respect of one of the orders passed, as referred above as CPLA No.494-K of 2023 but it is conceded by the appellants' counsel that no interim orders are passed/granted by the Supreme Court.

It is thus inconceivable to restrain the official respondents from implementing the order as was passed earlier, which attained finality by virtue of dismissal of appeal as well as the review applications. The matter at present is pending adjudication before Supreme Court.

In view of above, on account of conclusion of the lis in shape of High Court Appeal and the two review applications filed therein the interference is not required as the impugned order only seeks compliance of the order/orders which have attained finality, as referred above, at least up to this Court. Accordingly, appeal being misconceived is dismissed in limine along with listed applications.

Judge

Judge