

ORDER SHEET  
THE HIGH COURT OF SINDH AT KARACHI  
C.P. No.D-6804 of 2021

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Date: Order with signature(s) of the Judge(s)  
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**Before: Salahuddin Panhwar &  
Mohammad Abdur Rahman, JJ**

Priority.

1. For Orders on Office Objection
2. For Hearing of Misc. No. 29406/2021
3. For Hearing of Main Case

**26<sup>th</sup> March, 2024**

Mr. Imamuddin Chandio advocate for the Petitioners  
Mr. Iqbal Khurram advocate for MDA a/w Najabuddin Sahito, DG,  
MDA  
Ms. Noushaba Haque Solangi, AAG  
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**Salahuddin Panhwar, J:-** Counsel for the petitioners contends that title to the agricultural land in question was duly conferred upon the petitioners by the Malir Development Authority (hereinafter referred to as "MDA") under the auspices of MDA Scheme No. 45. Consequently, the petitioners claim either the entitlement to an alternative plot or, in the alternative, monetary compensation.

2. In contra, the counsel for MDA argues that the scheme was originally launched by Karachi Development Authority (KDA), but was subsequently transferred to MDA. The MDA has conducted plot allocations through balloting process and is obligated to develop the project, having collected funds from the participants for this purpose. The Director General of MDA appeared in response to a show cause notice and submitted a satisfactory reply; therefore, the show cause notice is hereby recalled.

3. The issue in question relates to the operations of the Malir Development Authority (MDA), it is prudent to scrutinize the relevant sections of Malir Development Authority Act, 1993 (hereinafter referred to as "the Act of 1993"). The Act's preamble reveals that the Act of 1993 was enacted to facilitate the development of designated areas within Karachi Division to enhance the socio-economic conditions of the inhabitants therein and to

constitute an Authority tasked with this mandate. Section 8 of the Act of 1993 defines the functions of MDA, which are as follows:-

*“8. (1) Without prejudice to the generality of the forgoing powers and subject to the general or special directions of Government, the Authority, shall—.*

*(i) prepare or cause to be prepared and execute schemes for the development of the area and improvement of socio-economic conditions of the people of that area;*

*(ii) develop, operate and maintain water works and irrigation projects;*

*(iii) prepare, develop, operate and maintain agriculture schemes, and poultry, fruit, vegetable and pan farming and undertake agriculture research and plant protection;*

*(iv) develop livestock and fisheries;*

*(v) prepare, develop, operate and maintain forests, including pastures and green belts;*

*(vi) prepare, cause to be prepared, develop and operate and maintain the schemes relating to industrial or commercial purposes and ancillary thereto;*

*(vii) prepare, develop, operate and maintain schemes to generate income for unemployed persons of the area;*

*(viii) formulate, implement and executive schemes for the development of urban, rural and industrial areas;*

*(ix) provide, develop, operate and maintain public works relating to socio-economic upliftment of the people through its own agencies or agencies through private sector or in collaboration with other national, international agencies or non-government organization;*

*(x) act as development agency for the Federal and Provincial Governments or any local authority or autonomous body;*

*(xi) collaborate with the Federal or Provincial public or private agencies engaged in the development activities;*

*(xii) co-ordinate the development activities of various agencies in the area;*

*(xiii) provide technical guidance including technical services and personnel for development and co-ordination of development activities;*

*(xiv) render financial assistance for schemes relating to development and improvement of the area and to raise the income level of the people within its jurisdiction;*

*(xv) undertake the execution of schemes entrusted to it by the Federal or Provincial Government or any local authority or autonomous body;*

*(xvi) undertake research in Developmental planning;*

*(xvii) prescribed procedure and lay down standards for development;*

*(xviii) compile literature on planning and development and distribute such literature amongst the persons and agencies engaged or interested in development work;*

*(xix) arrange and conduct training programmes and seminars on planning and development;*

*(xx) promote professional organizations for planning and development work; and*

*(xxi) perform such other functions as may be considered necessary for achieving the objectives of the Authority or as assigned to it by Government.*

*(2) The Authority may—*

*(i) take such measures and exercise such powers as may be necessary for carrying out the purposes of this Act;*

*(ii) acquire permanently or requisition temporarily property moveable or immovable;*

*(iii) dispose any land or other property vested in it by sale, lease exchange or otherwise;*

*(iv) undertake any works in pursuance of any scheme or otherwise entrusted to it or brought under its control;*

*(v) incur any expenditures for carrying out the purposes of this Act;*

*(vi) procure plant, machinery, instruments or material required for its use;*

*(vii) enter into and perform all such contracts as it may consider necessary;*

*(viii) cause removal of any obstruction in execution of any work or scheme;*

*(xi) issue interim orders for development pending preparation of scheme;*

*(x) restrict or prohibit by general or special order, any change in use of land and alteration of any building; structure or installation;*

*(xi) cause any building, structure or installation to be dismantled or removed;*

*(xii) require any person or body of persons or agency engaged in development work to furnish any information, record, report or plan relating to matter under this Act;*

*(xiii) make inspection of any development project under execution or about to be undertaken together with record thereof;*

*(xiv) require any person or body of persons or agency concerned with any development project, programme or scheme to obtain its prior permission for undertaking any specified action in respect of such project, programme or scheme;*

*(xv) direct or, as the case may be, advise any person or body of persons or agency concerned with any development project, programme or scheme to do or omit to do anything in relation to such project, programme or scheme, and hold consultation with and seek advice or assistance from any person or body of persons or agency engaged in development works in relation to preparation or execution of any scheme and such persons or body of persons or agency shall give the advice and assistance sought by the authority to the best of his or its ability, knowledge and judgement and the expenditure if any involved in giving such advice or assistance shall be borne by the Authority.*

*(3) If in exercise of powers by the Authority under subsection (2), any dispute arises between the Authority and any person or body of persons or agency, it shall be referred to and decided by such person or authority as may be appointed by Government in this behalf and the decision given by such person or authority shall be final;*

*Provided that Government may on its own initiative or on motion by any person or body of persons or agency involved in the dispute, revise or modify such decision."*

4. Section 17 of the Act of 1993 confers upon the Authority the power to formulate particular schemes for a designated controlled area or a portion thereof, in accordance with the prescribed form and manner. Section 33 of the same Act establishes a distinct fund, referred to as "Fund of the Authority", which shall be under the Authority's jurisdiction and shall comprise... (a) grants made by Government; (b) grants made by local councils; (c) loans raised or obtained by the Authority; (d) sale proceeds of movable or immovable properties; (e) all moneys received from the Federal Government or an international agency; (f) all fees, receipts and charges received under the Act; (g) moneys received from utilization or service rendered by any agency; (h) proceeds of self-financing schemes; (i) all other sums receivable by the Authority. Section 34 of the Act of 1993 delineates the

modalities for the utilization of funds by the Malir Development Authority (MDA). The Authority is empowered and upon directive from the Government, mandated to create a sinking fund dedicated to the repayment of any loans procured by the Authority. In accordance with Section 35(1) of the Act of 1993, the Authority is required to contribute to this fund such amounts as, with the accrual of interest, will be adequate to discharge the loan. Furthermore, subsection (2) stipulates that: *“The sinking fund may be utilized for carrying out any purpose under this Act, after the repayment of the loan for which such fund is established”*. The preamble and the provisions of the Act of 1993 collectively establish a thorough and definitive framework for the implementation of the Act’s principal objectives and schemes.

5. The Director General of Malir Development Authority (MDA) shall submit notification pertaining to the Authority’s criteria for the allotment of plots and land as well as the mechanisms employed in the balloting process over the past six years. Besides, the Director General shall furnish a detailed and comprehensive report concerning the initiation and progression of various schemes, development projects, programs, agricultural schemes, poultry, fruits, vegetables and pan farming, as well as agricultural research and plant protection measures, from the inception of the Act of 1993. This report shall contain details whether the essential objectives, purposes and schemes delineated in the Act of 1993 have been implemented with rigorous adherence to both the explicit provisions and the underlying intent of the statute, particularly concerning the socio-economic advancement of the populace of the region from its inception. Furthermore, it must include comprehensive particulars with regard to the allocation of Malir Development Authority’s (MDA) funds, delineating the methods of fund management, utilization and whether any portion of these funds has been allocated to profitable ventures.

6. At this juncture, the learned counsel for MDA raised the contention that the petitioners are unlawfully occupying the land in question. He further asserts that the MDA currently possesses no land for allocation; the Authority’s mandate is now confined to the development of three specific schemes: (1) Malir Housing Scheme-1, (2) Shah Latif Town Scheme 25-A, and (3) Taiser Town Scheme-45.

7. Respondents Nos.1 and 2 shall submit their comments on the next date of hearing. In case of failure they shall be in attendance. It appears that these schemes were originally initiated by the Karachi Development Authority (KDA), accordingly, Director General of the KDA shall submit a report concerning the acquisition of the land in question, if such acquisition has occurred.
8. Being a part heard, the matter is adjourned to 25<sup>th</sup> April, 2024.

**JUDGE**

**JUDGE**

M.Zeeshan