

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
CP No.D-1001 of 2025
 (Rukhsana Asad Iqbal vs. Province of Sindh & others)

Present:
 Mr. Justice Muhammad Iqbal Kalhoro.
 Mr. Justice Muhammad Osman Ali Hadi

- Priority**
1. For order on office objection
 2. For hearing of Misc. No.5345/2025
 3. For hearing of main case

09.04.2025

Mr. Ali Asghar Buriro, advocate for petitioner
 Mr. Khursheed Javed, advocate for KDA
 Mr. Manzoor Hussain Abro, advocate for SBCA
 Syed Hisham Mahar, AAG

ORDER

Muhammad Iqbal Kalhoro, J: As per facts, petitioner has alleged to be owner of property i.e. 176-A, admeasuring 240 sq. yds. Scheme No.36, Gulstan-e-Johar, Karachi, which respondent No.2 (Syed Athar Abbas Rizvi) claims to have purchased from respondent No.3 (Liaquat Hussain Turk), who on his part claims to have a General Power of Attorney executed by petitioner in his favour. Respondent No.2 has filed a Civil Suit No.350/2025 before the learned Senior Civil Court at Karachi for declaration and permanent injunction on the basis of a sale agreement allegedly executed by the petitioner through respondent No.3 as her duly appointed attorney. It is her claim in the petition that respondents have forged documents in order to grab her property. Her grievance is that the Karachi Development Authority (**KDA**) and Sindh Building Control Authority (**SBCA**) are in league with respondent No.2 and have issued a notice to “owner of the plot” without mentioning the actual name and directing him/her to produce relevant documents within two (02) days, which letter according to the petitioner shows active connivance of KDA with respondents. With such background, she has prayed as under:-

“A. Declare that Petitioner's right has been infringed by private respondents with full connivance and support of respondent No.4 and 6 in facilitating private respondents to approach the civil courts.

B. Declare that, act of official respondent No.4 and 6 is illegal and direct them to protect and preserve the property of petitioner till the outcome of civil Court where the litigation is pending for declaration of title of respondent No.2 and authority exercised by respondent No.3 as attorney of petitioner. Till the decision petitioner may be declared as law full owner of plot bearing plot No.176-A, Block-2, measuring 240 sq. yds., scheme-36, Gulstan-e-Johar, Karachi.

C. Declare that issuance of letter dated 04.03.2025 is illegal and void and has been issued without law full authority in order to make the plot of petitioner controversial and make room for the land grabbers to play with title of original owner.

D. To pass interim order, restrain respondents from further proceeding in respect of plot, such as approval building plan in favor of respondent No.2 or transfer to third party. Permanently restrain official Respondent not to create third party interest in respect of Petitioner's property till the final disposal of caption Constitutional Petition.

E. Restrain the Respondent No.5 not to approve any building plan, if approved same may be cancelled and in garb of any approval construction raised same may be demolished and plot of the petitioner being plot No. 178-A, admeasuring 240 sq. yds., scheme No.36, Gulstan-e-Johar may be preserved and enforced by the respondent No.6.

F. Direct the respondent No.6 to enforce the status quo in respect of plot in between the parties till final decision of the civil court or till the order of stay application pending in suit No.350/2025 before the Court of learned X senior civil Court East Karachi.

G. Direct the respondent No.1 to take stern action against the delinquent officer/officials are involved in facilitation of the respondent No.1 & 2 in managing frivolous documents.

H. Any other relief, which this Hon'ble Court deems appropriate in accordance with facts and circumstances of the case.”

2. We have heard learned counsel for the petitioner and learned counsel for KDA. The latter has stated that the suit between the parties over the same cause of action is already pending before the competent Court of law in which KDA is also a party. In presence of such suit, this petition is not maintainable.

3. When, we have asked learned counsel for the petitioner that as to how we can grant the kind of declarations sought in the petition in respect of the property, which is already a subject matter of the Suit No.350/2025, he has urged that he has not sought declarations from this Court. When, we have asked him to come to his prayer clauses (a) (b) & (c), he has submitted that he might have mentioned relief of declaration in the prayers, but he is actually highlighting the malafide of KDA, which has issued a letter “to the owner” by not mentioning the name of the petitioner, who is the actual owner of the property. Then, we asked him as to how we can direct the respondents / KDA and SBICA to maintain *status quo* over the suit property when it is already a subject matter of the suit and respondent No.2 is seeking declaration to be its owner, he submitted that the Court can grant any relief (s) irrespective of prayers made by him.

4. He then referred to prayer clause-G to explain that it is confined to seeking directions to officials for taking an stern action against the delinquent officials in facilitating respondents No.1 & 3 in managing frivolous

documents. However, he has not been able to show that how and in what manner, a document, and which document, has been managed, fabricated by either of the respondents. We are also surprised that why he did not file a proper application before the trial Court where the suit is pending highlighting petitioner's grievances, or file a counter suit to raise her pleas accordingly. Learned counsel has no answer to such questions and instead has urged that this Court has the jurisdiction to adjudicate upon the matter.

5. We have minutely perused contents of the petition and prayer clauses and are of the view that this petition is not maintainable. The suit is already pending between the parties over the subject matter where petitioner can maintain her grievances by moving a proper application or by filing a counter suit in the Court raising her pleas as the case may be. Since the counsel for the petitioner has miserably failed to establish either maintainability of the petition or his failure to approach the trial Court, we dismiss the petition with a cost of Rs.20,000/- (Rupees twenty thousand) to be paid by the petitioner to the respondents within month.

This petition is disposed of in above terms along with pending applications.

JUDGE

JUDGE

Rafiq/P.A