

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

CP No. D-5136 of 2023
(*Tanveer ul Hassan & Others v. Province of Sindh & Others*)

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CP No. D-4623 of 2024
(*Yasir Ali & Others v. Province of Sindh & Others*)

DATE: **ORDER WITH SIGNATURE(S) OF JUDGE(S)**

CP No. D-5136 of 2023

1. For Hearing of CMA No. 16197 /2024 (O 7 R. 10 & 11 CPC)
2. For Order on CMA No. 28870 / 2023 (O 39 R. 1 & 2 CPC)
3. For Order on CMA No. 23545 / 2023 (O 39 R. 1 & 2 CPC)
4. For Order on CMA No. 23546 / 2023 (Sec. 151 CPC)
5. For Hearing of Main Case

CP No. D-4623 of 2024

1. For Orders on Office Objections
2. For Hearing of CMA No. 20460 / 2024 (O 39 R. 1 & 2 CPC)
3. For Hearing of Main Case

26-5-2025

Mr. Muhammad Najeeb Jamali, Advocate for Petitioner (in CP No.D-5136 / 2023)
Mr. Ahmed Ali Hussain, Advocate for Petitioner (in CP No.D-4623 / 2024)
Mr. Muhammad Vawda, Advocate for Respondent Society (Sadaf Coop. Housing Society Ltd)
Ms. Humaira Jatoi, Advocate for Sindh Master Plan Authority
Mr. Shahryar Qazi, AAG along with Mr. Ghulam Muhammad Memon, Assistant Registrar, Cooperative Societies Sindh

1. **Sana Akram Minhas J:** The learned Counsel for the Petitioners and for the Respondent *Sadaf Cooperative Housing Society Ltd* ("**Society**") are in agreement that the Society's elections have not been conducted for several years and must now be held without further delay, as doing so would substantially contribute to resolving the disputes between the parties.
2. However, Mr. Najeeb Jamali, representing the Petitioners, and Mr. Muhammad Vawda, Advocate for the Society, remain in disagreement regarding the eligibility criteria for voters in the forthcoming elections. Mr. Jamali contends that voting rights should be confined strictly to those members who have been allotted plots with specific, duly assigned plot numbers – such members being identified in the list filed by the Society itself under cover of its Statement dated 29.3.2024 (**Court File Pg. 1113**). In support of this contention, the Petitioners' Counsel relies upon the Society's

Byelaws (**Court File. Pg 655, Annex B**), and in particular draws attention to Byelaw No.8 and 8(a) which provide as follows:

Byelaw No.8 and 8(a):

- 8. Total number of membership shall not exceed at number of plots available for allotment.
- 8(a). The total strength of members shall not exceed the total limit of plots / premises as available for allotment with the Society.

The Petitioners' Counsel submits that, according to the Society's own list, the number of plots in the only sanctioned Layout Plan (which pertains to Sector 15-A) is 671, whereas the number of members stands at 1,663. This, he argues, is in direct contravention of the aforementioned Byelaws, which explicitly restrict membership to the number of plots actually available for allotment.

3. Conversely, the Counsel for the Society argues that voting rights should also be extended to individuals who have not yet been allotted plots but for whom land is available (in Sector 15-B and Sector 12-B/3), although the approval of the Layout Plan(s) by the *Sindh Master Plan Authority* (Respondent No.9) is still pending.
4. The Compliance Report dated 28.3.2024, submitted by the *Sindh Master Plan Authority* (**Court File, Pg. 1095**), confirms that the Layout Plan currently in effect pertains only to Sector 15-A (which measures 45 acres 22 ghuntas). The Layout Plans for the other two sectors – Sector 15-B (2 acres) and Sector 12-B/3 (12.45 acres) – have been cancelled or withdrawn.
5. We are not persuaded by the contention advanced by the learned Counsel for the Society. Granting voting rights to individuals whose allotments have not yet been finalized – and whose eligibility is contingent upon the future approval of the Layout Plan by the competent regulatory authority – introduces an element of uncertainty that is incompatible with the requirements of a fair and transparent electoral process. Such individuals do not, at present, possess any legally recognized interest in the Society's land, and as such, cannot be considered members entitled to participate in its governance. Permitting persons with contingent or speculative claims to vote would not only dilute the legitimacy of the election but also give rise to potential disputes and legal challenges in the event that the Layout Plan(s) are not sanctioned, thereby resulting in the disqualification of such individuals as members and, consequently, in the possible nullification of the election process. Ensuring that only confirmed allottees with assigned plot numbers participate in the election is essential to maintaining transparency,

fairness, and lawful representation within the Society's governance framework.

6. Given the above, we direct as follows:

- i) A period of sixty (60) days from today is granted for holding the elections of the President and the entire Managing Committee of the Society in accordance with the *Sindh Cooperative Societies Act, 2020*, the *Rules of 2020* and the Byelaws of the Society. All necessary steps shall be taken within this time frame to ensure the conduct of the elections.
- ii) An Election Committee shall be constituted in accordance with Rule 9(5) of Rules, 2020, and notified within seven (7) days from today.
- iii) A valid voter list of the Society's members shall be prepared, comprising only those members who have been allotted plots with specific and identifiable plot numbers as reflected in the Society's sanctioned Layout Plan.
- iv) The Election Committee shall ensure that the eligibility of candidates contesting the upcoming elections complies strictly with the *Sindh Cooperative Societies Act* and *Rules, 2020* – particularly Rule 9 – and the Society's Byelaws.
- v) The Election Committee shall not adjudicate any dispute relating to the right, title, or claim of any person to membership in the Society. In the event of such disputes, the concerned member(s) shall be at liberty to approach the competent forum for redressal of their grievances.
- vi) The Election Committee shall, at the expense of the Society, issue an election schedule and cause its publication in widely circulated newspapers – one in Urdu and one in English – specifying, inter alia, the time and venue of the election.
- vii) Any election-related charge or payment requested by the Election Officer and/or office of the Registrar Cooperative, shall be made by the Society only upon issuance of an official acknowledgment receipt by the Registrar's office.
- viii) Upon completion of the elections of the President and the entire Managing Committee of the Society, the Registrar Cooperative, shall issue a notification declaring the election results. A compliance report shall thereafter be submitted to this Court through MIT-II.

- ix) The interim order(s) presently operative shall continue to remain in effect until the elections are conducted and the management and control of the Society's affairs are duly transferred to the newly elected Managing Committee.
7. Both Constitution Petitions, i.e. CP No.D–5136 of 2023 and CP No.D–4623 of 2024, stand **disposed of** in the above terms, along with all pending applications.

JUDGE

JUDGE