

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
CP No. D-5817 of 2024

(*Waqef Shah & Another v. Federation of Pakistan & Others*)

DATE:	ORDER WITH SIGNATURE(s) OF JUDGE(s)
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- 1. For Orders on Office Objection
- 2. For Hearing of CMA No. 27828 / 2024 (O 1 R.10 CPC App)
- 3. For Hearing of Main Case

28-4-2025

Petitioners present in person
Mr. Muhammad Asif holding brief for Mr. Muhammad Asif Malik, Advocate for Respondent No.2
Mr. Muhammad Waseem Iqbal, Advocate for Respondent No.7
Mr. Imran Abro, AAG Sindh
Mr. Dur Muhammad Shah, Asst. Attorney General along with
Hassam Bin Atiq, Military Estate Officer

- 1. **Sana Akram Minhas J:** The Petitioners, claiming to be members of the Respondent No.7 viz. *Sindh Government Employees Cooperative Housing Society (“Society”)* and allottees of plots therein, have filed this Petition seeking, *inter alia*, injunctive relief to restrain the Respondent No.2 (Base Commander, PAF) from interfering with the land belonging to the Society and/or its members.
- 2. Learned Counsel for the Society recounted the protracted history of litigation involving the Society, originating from Civil Suit No.1123/1992 (*Sindh Government Employees Cooperative Housing Society v. Federation of Pakistan & Others*) (**“1992 Suit”**), which has been successively re-numbered as:
 - Civil Suit No.256/1997;
 - Civil Suit No.384/2016;
 - Coop. Society Suit No.1914/2021; and most recently as
 - Civil Suit No.1064/2024.
- 3. He submitted that the 1992 Suit has been subjected to multiple rounds of litigation and delays over the years. He elaborated on the proceedings as follows:

First Round Of Litigation:

- i) The 1992 Suit was decreed in favour of the Society (Plaintiff) by the Senior Civil Judge, Malir, through judgment dated 17.9.2004 and decree dated 27.9.2004.

- ii) The Defendants No.1 to 4 of 1992 Suit (two of whom are Respondents No.1 & 2 in this Petition) challenged the said judgment and decree in Civil Appeal No.40/2004, which was dismissed by the Additional District Judge, Malir, by judgment dated 22.12.2005.
- iii) A Civil Revision Application No.29/2006 was then filed by the Defendants before the High Court of Sindh, which too was dismissed vide judgment dated 30.9.2008.
- iv) The said Defendants further challenged the High Court's decision in Civil Appeal No.1274/2009 before the Supreme Court. Though the appeal was disposed of through a consent order dated 17.3.2016, it effectively allowed the appeal by setting aside the judgments of the three earlier forums and remanding the matter to the Trial Court, inter alia, with directions to implead the Province of Sindh as a Defendant in the 1992 Suit.

Second Round of Litigation (i.e. Post-Remand Proceedings):

- v) Upon remand, the 1992 Suit was dismissed by the Senior Civil Judge, Malir, through judgment and decree dated 9.10.2020.
- vi) The Society filed Civil Appeal No.19/2021, which was allowed by the District Judge, Malir, by judgment and decree dated 2.8.2021, whereby the matter was remanded to the Trial Court.
- vii) The Base Commander, PAF (Respondent No.2 herein) then filed Civil Revision Application No.127/2021 before the High Court of Sindh. Vide interim order dated 20.8.2021, the Single Judge suspended the judgment and decree of the District Judge passed in Civil Appeal No.19/2021. The said Civil Revision Application is stated to be pending adjudication before the High Court.
- viii) Subsequently, by order dated 16.10.2021, the Trial Court transmitted the 1992 Suit to the Special Court for Cooperative Societies constituted under the *Sindh Cooperative Societies Act, 2020*.
- ix) However, the Special Court, by order dated 6.9.2024, returned the plaint under Order 7 Rule 10 CPC¹, holding that since Defendants No.1 to 4 in the 1992 Suit (i.e, Federation of Pakistan, MEO

¹ Counsel for the Society submits that although the Special Court rightly held that it lacked jurisdiction in the matter, the return of the plaint under Order 7 Rule 10 CPC was nevertheless contrary to the binding precedent laid down by a Division Bench of this Court in the case reported as National Bank of Pakistan v. Humayun Sultan Mufti (1984 CLC 1401)

Rawalpindi, MEO Karachi and Base Commander PAF) were not members of the Society, they did not fall within its jurisdiction.

- x) Following return of the plaint, the Trial Court, by order dated 26.11.2024, fixed the matter for 7.12.2024 for hearing of an intervenor application filed by the present Petitioners under Order 1 Rule 10 CPC, seeking their joinder as parties to the 1992 Suit.
 - xi) According to Counsel for Society, the said application has since been allowed, and the Petitioners have now been impleaded as co-Plaintiffs along with the Society in the re-numbered Civil Suit No.1064/2024.
4. Counsel for the Society submits that the subject matter of the present Petition and the reliefs sought herein substantially overlap with those claimed in the 1992 Suit (presently re-numbered as Civil Suit No.1064/2024). He contends that adjudication of this Petition at this stage would amount to parallel proceedings on the same issues, which is neither desirable nor permissible in law. Counsel further points out that since the Petitioners have now been impleaded as co-Plaintiffs in the said 1992 Suit, they are at liberty to pursue all available reliefs in those pending proceedings. This, he submits, would avoid multiplicity of litigation and ensure that all questions of fact and law are determined comprehensively in the competent civil forum. Upon query, the Petitioners have expressed satisfaction with this course of action and agree to seek their remedies within the framework of the 1992 Suit (now Civil Suit No.1064/2024).
5. Accordingly, the instant Petition with the pending application(s) stands **disposed of** with the direction that the Petitioners may avail all appropriate remedies, including injunctive relief, before the Trial Court in the 1992 Suit, presently re-numbered as Civil Suit No.1064/2024, which shall be decided strictly on its own merits as per law, and uninfluenced by the pendency or disposal of this Petition. The record and proceedings of the 1992 Suit, if currently lying with the learned Judge of the Special Court for Cooperative Societies, shall be returned forthwith to the Trial Court presently seized of the matter. A compliance report in this regard shall be submitted by the said Special Court before MIT-II of this Court within twenty (20) days of the receipt of this Order, which shall be communicated to the Special Court by the Office without delay.

JUDGE

JUDGE